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LEGISLATIVE ASSEMBLY OF ONTARIO

SECOND SESSION THIRTY-SECOND PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE TOGETHER WITH REPRINTS AND THIRD READINGS

SESSION

MARCH 9th to JULY 7th, 1982

and

SEPTEMBER 21st to DECEMBER 21st, 1982

and

JANUARY 17th to FEBRUARY 23rd, 1983

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SECOND SESSION THIRTY-SECOND PARLIAMENT

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2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Legislative Assembly Act

THE HON. R. WELCH
Minister of Energy

EXPLANATORY NOTE

The annual indemnity of members of the Assembly is increased from \$30,000 to \$31,800 and the annual allowance for expenses of members of the Assembly is increased from \$10,000 to \$10,600.

BILL 168

1982

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 29, section 1, are repealed and the following substituted therefor:
 - (1) An indemnity at the rate of \$31,800 per annum shall be paid to every member of the Assembly. Members' indemnities
 - (2) An allowance for expenses at the rate of \$10,600 shall be paid to every member of the Assembly. Members' allowances
2. This Act shall be deemed to have come into force on the 1st day of April, 1982. Commence-ment
3. The short title of this Act is the *Legislative Assembly Amendment Act, 1982*. Short title

An Act to amend
the Legislative Assembly Act

1st Reading

July 5th, 1982

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Energy

(Government Bill)

BILL 168

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Legislative Assembly Act

THE HON. R. WELCH
Minister of Energy

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 168

1982

An Act to amend the Legislative Assembly Act

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1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 29, section 1, are repealed and the following substituted therefor:
 - (1) An indemnity at the rate of \$31,800 per annum shall be paid to every member of the Assembly. s. 60 (1, 2),
re-enacted
Members'
indemnities
 - (2) An allowance for expenses at the rate of \$10,600 shall be paid to every member of the Assembly. Members'
allowances
2. This Act shall be deemed to have come into force on the 1st day of April, 1982. Commence-
ment
3. The short title of this Act is the *Legislative Assembly Amendment Act, 1982*. Short title

An Act to amend
the Legislative Assembly Act

1st Reading

July 5th, 1982

2nd Reading

July 7th, 1982

3rd Reading

July 7th, 1982

THE HON. R. WELCH
Minister of Energy

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for a Moratorium on Mortgage Payments
for Persons affected by an Interruption of Employment**

MR. LAUGHREN

EXPLANATORY NOTE

The purpose of the Bill is to provide for a moratorium on the payment of principal and interest amounts secured by mortgages on the residences of persons who suffer an interruption of employment arising from a legal strike, lock-out or lay-off. The Bill also protects a mortgagor from mortgage default proceedings during the moratorium period.

BILL 169

1982

An Act to provide for a Moratorium on Mortgage Payments for Persons affected by an Interruption of Employment

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "residence" means the residence in which a person ordinarily and actually resides. Interpre-
tation

2. Where the employment of a mortgagor is interrupted by reason of a legal strike, lock-out or lay-off, the mortgagor may defer the payment of the principal money secured by the mortgage on the mortgagor's residence and the interest thereon, Mortgage
payment
deferral

- (a) in the case of a strike or lock-out, for the period of the interrupted employment and a period of three months following the resumption of employment; or
- (b) in the case of a lay-off, for the period of the lay-off and a period of three months following the resumption of employment or for a period of six months following the day on which the lay-off commences, whichever occurs first.

3. Where the employment of a mortgagor is interrupted by reason of a legal strike, lock-out or lay-off, the mortgagee shall not bring any proceedings in respect of a default by the mortgagor in making payments under a mortgage of a mortgagor's residence, Moratorium
on mortgage
default
proceedings

- (a) in the case of a strike or lock-out, for the period of the interrupted employment and a period of three months following the resumption of employment; or
- (b) in the case of a lay-off, for the period of the lay-off and a period of three months following the resumption of employment or for a period of six months following the

day on which the lay-off commences, whichever occurs first.

Notice

4. Sections 2 and 3 do not apply until the mortgagor gives notice of the interrupted employment, in writing, to the mortgagee and, upon the resumption of employment, the mortgagor shall give the mortgagee notice forthwith.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Mortgage Payments Moratorium Act, 1982*.

An Act to provide for a Moratorium
on Mortgage Payments for Persons
affected by an Interruption of Employment

1st Reading

July 5th, 1982

2nd Reading

3rd Reading

MR. LAUGHREN

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Vital Statistics Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

SECTION 1. Subsection 27 (2) currently reads as follows:

- (2) *If the marriage dissolved or annulled by the decree was solemnized in Ontario and registered with the Registrar General, the Registrar General, upon receipt of the statement of the divorce, shall register the statement.*

SECTION 2. Currently, to obtain a change of the sex designation shown on the register of birth, the applicant must provide, among other things, a certificate from a doctor practising in Ontario. This provision is being broadened to permit a certificate from a doctor practising in Canada.

SECTION 3. Subsection 39 (1) of the Act sets out the information that is to be shown on a birth certificate and provides that only the specified information shall be shown. The amendment would have the effect of permitting additional information to be shown.

BILL 170

1982

An Act to amend the Vital Statistics Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 27 (2) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Registrar General, upon receiving a statement of divorce under subsection (1), shall register it. s. 27 (2),
re-enacted
- 2.—(1) Clause 32 (2) (b) of the said Act is amended by striking out “Ontario” in the third line and inserting in lieu thereof “Canada”. s. 32 (2) (b),
amended

(2) Subsection 32 (3) of the said Act is amended by inserting after “(a)” in the second line “or (b)”. s. 32 (3),
amended
3. Subsection 39 (1) of the said Act is amended by striking out “only” in the first line. s. 39 (1),
amended
4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is the *Vital Statistics Amendment Act, 1982*. Short title

An Act to amend
the Vital Statistics Act

1st Reading

July 6th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to revise the Farm Products Containers Act

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

EXPLANATORY NOTE

This Bill re-enacts the *Farm Products Containers Act*.

The principal features of the Bill are as follows:

1. The power to make regulations requiring licensing will be transferred from the Minister to the Lieutenant Governor in Council.
2. The duty to collect licence fees will be transferred from the manufacturer of containers to the seller of containers.
3. The Lieutenant Governor in Council will be authorized to exempt any type of container from the regulations.
4. A seller of containers may be required to furnish information to the association related to the sale of containers.
5. An association may be authorized to recover licence fees by suit in a court of competent jurisdiction.
6. An association may be authorized to require a seller of containers to account for licence fees payable to the association.
7. The maximum fine for a first offence under the Act or regulations is raised from \$50 to \$500 and the maximum fine for subsequent offences is raised from \$200 to \$5,000.

BILL 171 1982

An Act to revise the Farm Products Containers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "association" means The Ontario Beekeepers' Association or The Ontario Fruit and Vegetable Growers' Association;
- (b) "container" includes any bag, basket, box, can, crate or other receptacle used or suitable for use in the marketing of honey, fruit or vegetables;
- (c) "licence" means a licence provided for under the regulations made under this Act;
- (d) "producer" means a person engaged in the production of honey, fruit or vegetables and includes a person engaged in the handling, packing, processing, shipping, transporting, purchasing or selling of honey, fruit or vegetables;
- (e) "product" means honey or any fruit or vegetable.
R.S.O. 1980, c. 156, s. 1, *amended*.

2. Where the Minister of Agriculture and Food receives from an association a request asking that, for the purpose of defraying the expenses of the association, every producer of any product specified in the request who purchases containers therefor be required to be licensed and to pay licence fees and the Minister is of the opinion that the association is representative of such producers, the Lieutenant Governor in Council may make regulations,

Licensing of
producers

- (a) providing for the licensing of every such producer and requiring him to pay licence fees to the association

through the seller of the containers and fixing the amount of such fees and the time of payment thereof;

- (b) exempting from the regulations any class of producer;
- (c) exempting from the regulations any type of container;
- (d) requiring every person who sells containers either directly or indirectly to producers to collect the licence fees from the producers and to pay them to the association;
- (e) requiring persons engaged in selling containers to producers to furnish to the association such information relating to the sale of containers, including the completing and filing of returns, as the association determines;
- (f) prohibiting the association from using any licence fees for the retail or wholesale distribution or processing of the product; and
- (g) providing for the recovery by the association of licence fees by suit in any court of competent jurisdiction, and requiring persons engaged in selling containers to producers to account for licence fees payable to the association. R.S.O. 1980, c. 156, s. 2, *amended*.

Offence

3. Every person who contravenes any of the provisions of this Act or the regulations made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500 for a first offence and to a fine of not more than \$5,000 for a subsequent offence. R.S.O. 1980, c. 156, s. 3, *amended*.

Repeal

4. The *Farm Products Containers Act*, being chapter 156 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is the *Farm Products Containers Act, 1982*.

An Act to revise the
Farm Products Containers Act

1st Reading

July 6th, 1982

2nd Reading

3rd Reading

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

(Government Bill)

BILL 171

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to revise the Farm Products Containers Act

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 171

1982

An Act to revise the Farm Products Containers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "association" means The Ontario Beekeepers' Association or The Ontario Fruit and Vegetable Growers' Association;
- (b) "container" includes any bag, basket, box, can, crate or other receptacle used or suitable for use in the marketing of honey, fruit or vegetables;
- (c) "licence" means a licence provided for under the regulations made under this Act;
- (d) "producer" means a person engaged in the production of honey, fruit or vegetables and includes a person engaged in the handling, packing, processing, shipping, transporting, purchasing or selling of honey, fruit or vegetables;
- (e) "product" means honey or any fruit or vegetable. R.S.O. 1980, c. 156, s. 1, *amended*.

2. Where the Minister of Agriculture and Food receives from an association a request asking that, for the purpose of defraying the expenses of the association, every producer of any product specified in the request who purchases containers therefor be required to be licensed and to pay licence fees and the Minister is of the opinion that the association is representative of such producers, the Lieutenant Governor in Council may make regulations,

Licensing of
producers

- (a) providing for the licensing of every such producer and requiring him to pay licence fees to the association

through the seller of the containers and fixing the amount of such fees and the time of payment thereof;

- (b) exempting from the regulations any class of producer;
- (c) exempting from the regulations any type of container;
- (d) requiring every person who sells containers either directly or indirectly to producers to collect the licence fees from the producers and to pay them to the association;
- (e) requiring persons engaged in selling containers to producers to furnish to the association such information relating to the sale of containers, including the completing and filing of returns, as the association determines;
- (f) prohibiting the association from using any licence fees for the retail or wholesale distribution or processing of the product; and
- (g) providing for the recovery by the association of licence fees by suit in any court of competent jurisdiction, and requiring persons engaged in selling containers to producers to account for licence fees payable to the association. R.S.O. 1980, c. 156, s. 2, *amended*.

Offence

3. Every person who contravenes any of the provisions of this Act or the regulations made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500 for a first offence and to a fine of not more than \$5,000 for a subsequent offence. R.S.O. 1980, c. 156, s. 3, *amended*.

Repeal

4. The *Farm Products Containers Act*, being chapter 156 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is the *Farm Products Containers Act, 1982*.

An Act to revise the
Farm Products Containers Act

1st Reading

July 6th, 1982

2nd Reading

October 19th, 1982

3rd Reading

November 2nd, 1982

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Ministry of Agriculture and Food Act**

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

EXPLANATORY NOTE

The proposed section 4*a* authorizes the Minister to delegate his or her powers to the Deputy Minister or other officials or employees of the Ministry. The proposed section 4*b* provides protection from personal liability to officers and employees of the Ministry and to the members, officers, clerks and employees of the Agricultural Licensing and Registration Review Board and the Farm Products Appeal Tribunal.

BILL 172

1982

An Act to amend the Ministry of Agriculture and Food Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Ministry of Agriculture and Food Act, being chapter 270 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

4a.—(1) Where, under this or any other Act or otherwise at law, a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as may be set out in the delegation.

Delegation
of powers
and duties

(2) Notwithstanding the *Executive Council Act*, a contract or an agreement made by a person empowered to do so under a delegation made under subsection (1) has the same effect as if made and signed by the Minister.

Contracts
and
agreements
R.S.O. 1980,
c. 147

4b.—(1) No action or other proceeding for damages shall be instituted against,

Protection
from
personal
liability

- (a) the Deputy Minister or any officer or employee of the Ministry or anyone acting under the Deputy Minister's authority; or
- (b) a member, officer, clerk or employee of the Agricultural Licensing and Registration Review Board or the Farm Products Appeal Tribunal,

for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

- (2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown

Crown
liability
R.S.O. 1980,
c. 393

of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort as if subsection (1) had not been enacted.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Ministry of Agriculture and Food Amendment Act, 1982*.

An Act to amend the Ministry of
Agriculture and Food Act

1st Reading

July 6th, 1982

2nd Reading

3rd Reading

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

(*Government Bill*)

BILL 172

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Ministry of Agriculture and Food Act

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 172

1982

An Act to amend the Ministry of Agriculture and Food Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Ministry of Agriculture and Food Act, being chapter 270 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

4a.—(1) Where, under this or any other Act or otherwise at law, a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as may be set out in the delegation.

Delegation
of powers
and duties

(2) Notwithstanding the *Executive Council Act*, a contract or an agreement made by a person empowered to do so under a delegation made under subsection (1) has the same effect as if made and signed by the Minister.

Contracts
and
agreements
R.S.O. 1980,
c. 147

4b.—(1) No action or other proceeding for damages shall be instituted against,

Protection
from
personal
liability

(a) the Deputy Minister or any officer or employee of the Ministry or anyone acting under the Deputy Minister's authority; or

(b) a member, officer, clerk or employee of the Agricultural Licensing and Registration Review Board or the Farm Products Appeal Tribunal,

for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown

Crown
liability
R.S.O. 1980,
c. 393

of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort as if subsection (1) had not been enacted.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Ministry of Agriculture and Food Amendment Act, 1982*.

An Act to amend the Ministry of
Agriculture and Food Act

1st Reading

July 6th, 1982

2nd Reading

October 19th, 1982

3rd Reading

November 2nd, 1982

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Private Investigators and Security Guards Act**

MR. MACKENZIE

EXPLANATORY NOTE

The Bill is intended to prevent undercover activities by private investigators on picket lines in the course of labour disputes.

BILL 173

1982

An Act to amend the Private Investigators and Security Guards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Private Investigators and Security Guards Act*, being chapter 390 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 28a,
enacted

28a. Despite subsection 25 (1), where a person acts as a private investigator on a picket line in the course of a labour dispute, the person shall wear a badge clearly identifying him or her as a private investigator. Private
investigator
on picket
line to wear
badge

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Private Investigators and Security Guards Amendment Act, 1982*. Short title

An Act to amend the Private Investigators
and Security Guards Act

1st Reading

July 6th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the Removal of Certain Waste from
the Malvern Area**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTES

The Bill authorizes the Borough of Scarborough to enter into agreements with owners and occupiers of properties in the Malvern Area for the removal of soil containing radioactive material and the rehabilitation of the properties from which the soil is taken.

The Borough of Scarborough is authorized to transport the removed soil to the place designated under the Bill by the Lieutenant Governor in Council.

The Bill authorizes the Lieutenant Governor in Council to designate a place to which the Malvern Waste will be transported and where it will be received and retained. The consent of the owner and the occupier of the place is required by the Bill before the place is designated.

The Bill removes the application of certain statutes, regulations and by-laws that would otherwise apply to the undertaking.

The Bill also provides that the Director under Part V of the *Environmental Protection Act* is not required to hold a hearing or to consider submissions from persons other than the applicant for approval before issuing an approval under the Part in respect of the undertaking.

The Bill gives the Borough of Scarborough and the owner and the occupier of a place designated under the Act the powers necessary to the undertaking and their duties under the Bill. The Bill also provides that it is not necessary to obtain the assent of the electors under section 149 of the *Municipal Act* or to obtain the approval of the Ontario Municipal Board under section 64 or 65 of the *Ontario Municipal Board Act* in respect of the undertaking.

The Borough of Scarborough and the owner of the designated place (if the owner is a municipality) and their employees are protected from liability in respect of the undertaking but the burden of such liability is assumed by the Crown.

The Bill provides that the actual and necessary expenses in respect of carrying out the undertaking are to be paid out of the moneys appropriated therefor by the Legislature. Payment is to be made upon the certificate of the Minister of Intergovernmental Affairs.

BILL 174

1982

An Act to provide for the Removal of Certain Waste from the Malvern Area

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Borough of Scarborough" means the municipality or The Corporation of the Borough of Scarborough;
- (b) "Malvern Area" means the property in the Borough of Scarborough shown on Plan M-1518 (Borough of Scarborough) registered in the Land Registry Office for the Land Titles Division of Metropolitan Toronto and the property situate within fifty metres of the property shown on the said Plan M-1518;
- (c) "Malvern Waste" means radioactive material in the soil and the soil contaminated with radioactive material in the Malvern Area or a part of the material or a part of the soil;
- (d) "municipality" means the corporation of a metropolitan, regional or district municipality, a county, city, town, village, township or improvement district;
- (e) "occupier" means a person who is in lawful physical possession of a place;
- (f) "undertaking" means the activities mentioned in sections 2 to 4.

2.—(1) The Borough of Scarborough may enter into written agreements with the owners and occupiers of properties in the Malvern Area in respect of the removal of Malvern Waste and the rehabilitation of the properties by the Borough of Scarborough.

Agreements
by Borough of
Scarborough

Time limit	(2) Except with the written consent of the Minister of Inter-governmental Affairs, no agreement may be entered into under subsection (1) after six months after the day that this Act comes into force.
Removal and rehabilitation	(3) The Borough of Scarborough may remove Malvern Waste from the Malvern Area and rehabilitate property in the Malvern Area in accordance with an agreement entered into under subsection (1).
Highway R.S.O. 1980, c. 302	(4) The Borough of Scarborough may remove Malvern Waste from land that is a highway, within the meaning of the <i>Municipal Act</i> , in the Malvern Area and rehabilitate the highway.
Transportation	3. The Borough of Scarborough may transport the Malvern Waste removed by it as mentioned in section 2 to such place as is designated by the Lieutenant Governor in Council.
Consent to designation	4. —(1) The owner and the occupier of a place may consent to the designation of the place by the Lieutenant Governor in Council under this Act.
Receipt and retention	(2) The owner and the occupier of the place designated by the Lieutenant Governor in Council may receive and retain at the place the Malvern Waste transported to the place by the Borough of Scarborough under this Act.
Designation of alternate place for delivery and retention	5. —(1) The Lieutenant Governor in Council by order may designate a place to which the Borough of Scarborough may transport the Malvern Waste removed by the Borough as mentioned in section 2.
Consent of owner and occupier	(2) The Lieutenant Governor in Council shall not designate a place under subsection (1) unless the owner and the occupier of the place have consented to the designation.
Carrying out of undertaking	6. The Borough of Scarborough and the owner and the occupier of a place designated by the Lieutenant Governor in Council under this Act have and shall exercise the powers necessary to carry out the undertaking and their duties under this Act.
Application of R.S.O. 1980, cc. 140,379	7. —(1) The following do not apply in respect of the undertaking: <ol style="list-style-type: none"> 1. The <i>Environmental Assessment Act</i>. 2. The <i>Planning Act</i>. 3. The regulations and by-laws made under or in relation to the Acts mentioned in paragraphs 1 and 2.

(2) Notwithstanding Part V of the *Environmental Protection Act*, the Director under the Part is not required to hold a hearing or to consider submissions from persons other than the applicant for approval before exercising his powers under section 38 of that Act.

Hearing
not required
under
R.S.O. 1980,
c. 141, Part V

(3) No provision of any other Act or of any regulation or by-law applies or shall be applied so as to conflict with a provision of this Act.

Conflict

8. It is not necessary to obtain the assent of the electors under section 149 of the *Municipal Act* to a by-law for incurring a debt for the purpose of carrying out the undertaking or to obtain the approval of the Ontario Municipal Board under section 64 or 65 of the *Ontario Municipal Board Act* in respect of the undertaking.

Application of
R.S.O. 1980,
cc. 302, 347

9. No claim for damages or otherwise shall be commenced against the Borough of Scarborough, a municipality that is the owner of a place designated by the Lieutenant Governor in Council under this Act or an employee of either of them for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority, but the claim may be enforced against the Crown in the same manner as if the Borough of Scarborough, the municipality and their employees were agents of the Crown and, for the purpose, the Crown is not relieved of liability by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*.

Protection
from
liability

R.S.O. 1980,
c. 393

10. Upon the certificate of the Minister of Intergovernmental Affairs as to the amount of the actual and necessary expenses incurred by each of the Borough of Scarborough, and the owner and the occupier of a place designated by the Lieutenant Governor in Council under this Act in respect of carrying out the undertaking, the amounts so certified shall be paid to the Borough of Scarborough, or the owner or the occupier of the designated place, as the case requires, out of the moneys appropriated therefor by the Legislature.

Payment of
expenses of
undertaking

11. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

12. The short title of this Act is the *Malvern Waste Removal Act, 1982*.

Short title

An Act to provide for the Removal of
Certain Waste from the Malvern Area

1st Reading

July 7th, 1982

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
McMichael Canadian Collection Act**

THE HON. B. McCaffrey
Minister of Citizenship and Culture

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

SECTION 1. Section 7 of the Act is re-enacted to ensure that the Board continues to maintain the present character of the collection.

SECTION 2. The new subsection 8 (2) of the Act ensures that no work of art donated to the Corporation will be sold without the consent of the donor or his heirs, executors, administrators or assigns.

SECTION 3. Clause 9 (1) (c) of the Act is repealed with the result that any restrictions on the disposition of the net profits from the Corporation's gift shop that heretofore formed part of the special fund are removed. These moneys would now become a part of the general fund of the Corporation.

SECTION 4. The new subsection 11 (3) of the Act provides for the remuneration of the Founder Director-Emeritus to be paid out of the general fund of the Corporation.

BILL 175

1982

An Act to amend the McMichael Canadian Collection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of the *McMichael Canadian Collection Act*, being chapter 259 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

7. The Board shall ensure that the focus of the collection is the art work and objects created by,

s. 7,
re-enacted

(a) Tom Thomson, Emily Carr, David Milne, A. Y. Jackson, Lawren Harris, A. J. Casson, Frederick Varley, Arthur Lismer, J. H. MacDonald, Franklin Carmichael;

(b) the indigenous peoples of Canada,

and other artists who have made contributions to the development of Canadian art and whose art work and objects will be consistent with the general character of the collection.

2. Section 8 of the said Act is amended by adding thereto the following subsection:

s. 8,
amended

(2) Notwithstanding clause (1) (b), no work of art donated or bequeathed to the Corporation shall be sold without the consent of the donor, his heirs, executors, administrators or assigns, unless there is an agreement to the contrary made at the time of the gift or thereafter.

Consent
of donor

3. Clause 9 (1) (c) of the said Act is repealed.

s. 9 (1) (c),
repealed

4. Section 11 of the said Act is amended by adding thereto the following subsection:

s. 11,
amended

(3) The Founder Director-Emeritus of the Corporation shall receive such remuneration as the Lieutenant Governor in Council.

Idem,
Founder
Director-
Emeritus

cil may determine, payable out of the general fund of the Corporation.

s. 18 (c),
re-enacted

- 5.** Clause 18 (c) of the said Act is repealed and the following substituted therefor:

(c) Robert McMichael shall be the Founder Director-Emeritus of the Corporation with such powers as are assigned to him from time to time by the Board and such duties as are set out in an agreement dated the 7th day of October, 1980, between the chairman of the Board and Robert McMichael and shall hold such office during pleasure of the Lieutenant Governor in Council.

Commence-
ment

- 6.** This Act comes into force on the day it receives Royal Assent.

Short title

- 7.** The short title of this Act is the *McMichael Canadian Collection Amendment Act, 1982*.

SECTION 5. Clause 18 (c) of the Act as re-enacted appoints Robert McMichael "Founder Director-Emeritus" of the Corporation.

An Act to amend the
McMichael Canadian Collection Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. B. MCCAFFREY
Minister of Citizenship and Culture

(Reprinted as amended by the
Social Development Committee)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
McMichael Canadian Collection Act**

THE HON. B. MCCAFFREY
Minister of Citizenship and Culture

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Section 7 of the Act is re-enacted to ensure that the Board continues to maintain the present character of the collection.

SECTION 2. The new subsection 8 (2) of the Act ensures that no work of art donated to the Corporation will be sold without the consent of the donor or his heirs, executors, administrators or assigns.

SECTION 3.—Subsection 1. Clause 9 (1) (c) of the Act is repealed with the result that any restrictions on the disposition of the net profits from the Corporation's gift shop that heretofore formed part of the special fund are removed. These moneys would now become a part of the general fund of the Corporation.

Subsection 2. Self-explanatory.

BILL 175

1982

An Act to amend the McMichael Canadian Collection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of the *McMichael Canadian Collection Act*, being chapter 259 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 7,
re-enacted

7. The Board shall ensure that the focus of the collection is the art work and objects created by, Nature of
collection

(a) Tom Thomson, Emily Carr, David Milne, A. Y. Jackson, Lawren Harris, A. J. Casson, Frederick Varley, Arthur Lismer, J. H. MacDonald, Franklin Carmichael;

(b) the indigenous peoples of Canada,

and other artists who have made contributions to the development of Canadian art and whose art work and objects will be consistent with the general character of the collection.

2. Section 8 of the said Act is amended by adding thereto the following subsection: s. 8,
amended

(2) Notwithstanding clause (1) (b), no work of art donated or bequeathed to the Corporation shall be sold without the consent of the donor, his heirs, executors, administrators or assigns, unless there is an agreement to the contrary made at the time of the gift or thereafter. Consent
of donor

- 3.—(1) Clause 9 (1) (c) of the said Act is repealed. s. 9 (1) (c),
repealed

(2) Section 9 of the said Act is amended by adding thereto the following subsection: s. 9,
amended

(4) The net profits of the Corporation from the sale of books, art reproductions, copyrights, artifacts and other wares may be Disposition
of proceeds
from gift
shop

paid into and become part of the special fund or the general fund and where such net profits are paid into the general fund, any part of the net profits may be transferred from the general fund to the special fund, as the Board may determine.

s. 11,
amended

4. Section 11 of the said Act is amended by adding thereto the following subsection:

Idem,
Founder
Director-
Emeritus

(3) The Founder Director-Emeritus of the Corporation shall receive such remuneration as the Lieutenant Governor in Council may determine, payable out of the general fund of the Corporation.

s. 18 (c),
re-enacted

5. Clause 18 (c) of the said Act is repealed and the following substituted therefor:

(c) Robert McMichael shall be the Founder Director-Emeritus of the Corporation with such powers as are assigned to him from time to time by the Board and such duties as are set out in an agreement dated the 7th day of October, 1980, between the chairman of the Board and Robert McMichael and shall hold such office during pleasure of the Lieutenant Governor in Council.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *McMichael Canadian Collection Amendment Act, 1982*.

SECTION 4. The new subsection 11 (3) of the Act provides for the remuneration of the Founder Director-Emeritus to be paid out of the general fund of the Corporation.

SECTION 5. Clause 18 (c) of the Act as re-enacted appoints Robert McMichael "Founder Director-Emeritus" of the Corporation.

An Act to amend the
McMichael Canadian Collection Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. B. McCAFFREY
Minister of Citizenship and Culture

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 175

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the McMichael Canadian Collection Act

THE HON. B. MCCAFFREY
Minister of Citizenship and Culture

BILL 175 **1982**

**An Act to amend the
McMichael Canadian Collection Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Section 7 of the *McMichael Canadian Collection Act*, being chapter 259 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 7,
re-enacted

7. The Board shall ensure that the focus of the collection is the art work and objects created by, Nature of
collection

(a) Tom Thomson, Emily Carr, David Milne, A. Y. Jackson, Lawren Harris, A. J. Casson, Frederick Varley, Arthur Lismer, J. H. MacDonald, Franklin Carmichael;

(b) the indigenous peoples of Canada,

and other artists who have made contributions to the development of Canadian art and whose art work and objects will be consistent with the general character of the collection.

- 2.** Section 8 of the said Act is amended by adding thereto the following subsection: s. 8,
amended

(2) Notwithstanding clause (1) (b), no work of art donated or bequeathed to the Corporation shall be sold without the consent of the donor, his heirs, executors, administrators or assigns, unless there is an agreement to the contrary made at the time of the gift or thereafter. Consent
of donor

- 3.—**(1) Clause 9 (1) (c) of the said Act is repealed. s. 9 (1) (c),
repealed

- (2) Section 9 of the said Act is amended by adding thereto the following subsection: s. 9,
amended

(4) The net profits of the Corporation from the sale of books, art reproductions, copyrights, artifacts and other wares may be Disposition
of proceeds
from gift
shop

paid into and become part of the special fund or the general fund and where such net profits are paid into the general fund, any part of the net profits may be transferred from the general fund to the special fund, as the Board may determine.

s. 11,
amended

4. Section 11 of the said Act is amended by adding thereto the following subsection:

Idem,
Founder
Director-
Emeritus

(3) The Founder Director-Emeritus of the Corporation shall receive such remuneration as the Lieutenant Governor in Council may determine, payable out of the general fund of the Corporation.

s. 18 (c),
re-enacted

5. Clause 18 (c) of the said Act is repealed and the following substituted therefor:

(c) Robert McMichael shall be the Founder Director-Emeritus of the Corporation with such powers as are assigned to him from time to time by the Board and such duties as are set out in an agreement dated the 7th day of October, 1980, between the chairman of the Board and Robert McMichael and shall hold such office during pleasure of the Lieutenant Governor in Council.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *McMichael Canadian Collection Amendment Act, 1982*.

An Act to amend the
McMichael Canadian Collection Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

April 23rd, 1982

THE HON. B. MCCAFFREY
Minister of Citizenship and Culture

2ND SESSION, 32ND LEGISLATURE ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Securities Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The proposed re-enactment of subparagraph i of paragraph 2 of subsection 1 (1) extends the definition of associate to include all issuers that are related to a person or company in the circumstances set out in that subparagraph.

The proposed subparagraphs iv and v clarify the present subparagraph iv.

Subsection 2. The amendment complements the definition of “director” as set out in paragraph 10 of subsection 1 (1) of the Act and extends the application of the meaning of “board of directors” to include, with respect to issuers that are not incorporated, those persons who act in a capacity similar to directors of a company.

Subsection 3. Clauses (a) and (b) repeal a spent provision. The proposed amendment set out in clause (c) is complementary to the enactment of subsection 71 (4a) as set out in subsection 22 (9) of the Bill.

Subsection 4. This subsection repeals a spent provision.

Subsection 5. The amendment is complementary to amendments to sections 34 and 71 of the Act as set out in sections 12 and 22 of the Bill.

Subsection 6. The amendment will make paragraph 16 consistent with the wording of paragraph 28 of subsection 1 (1) of the Act.

Subsection 7. The amendment is complementary to amendments to sections 34 and 71 of the Act as set out in sections 12 and 22 of the Bill.

Subsection 8. The amendment excludes employees of affiliated companies from the calculation of the fifty shareholders to which a private company is limited.

Subsection 9. “Private mutual funds” are exempt from the registration and prospectus filing requirements of the Act. The amendment would incorporate into the Act the substance of clause 14 (d) and subsection 19 (2) of Regulation 910 of Revised Regulations of Ontario, 1980 that expand on the types of plans registered under the *Income Tax Act* (Canada) that can be served by a private mutual fund while at the same time imposing restrictions as to the promotion and management of such funds. In the course of the transfer into the Act these restrictions as to promotion and management have been eased to the extent that an affiliate of a trust company can promote and manage such a fund and a registrant can manage it.

Subsection 10. The re-enactment confirms that a company which is a reporting issuer by virtue only of being an offering corporation under the *Business Corporations Act* remains a reporting issuer when continued in another jurisdiction. The date set out in the amendment was the date that the proposed amendment was published in the Weekly Bulletin of the Commission.

Subsection 11. At present, subsections 1 (2) to (4) of the Act deem certain companies to be affiliated companies, controlled companies and subsidiary companies of a company. The proposed re-enactment extends the application of these provisions to all issuers.

Subsection 1 (5) of the Act deems certain securities to be beneficially owned by a person. The proposed re-enactment extends the operation of this provision to shares beneficially owned through a trustee, legal representative, agent or other intermediary.

The composition of the Commission is amended to provide that the Commission shall be composed of not less than nine and not more than eleven members. At present, the Commission has nine members.

SECTIONS 2 AND 3. The Lieutenant Governor in Council will be authorized to designate one of the members of the Commission as Deputy Chairman and two members as Vice-Chairmen. The authority of the Commission to sit in two or more panels is clarified.

SECTION 4. The amendment clarifies the powers of the Commission in situations where experts have been appointed.

SECTION 5.—Subsection 1. The amendment provides consistency with the wording of clause 12 (b) of the Act.

Subsection 2. The amendment provides that the powers conferred under subsection 11 (3) apply to all securities and not just to stocks.

SECTION 6. The amendment provides that a person giving evidence at an investigation made under section 13 has a right to be represented by counsel.

SECTION 7.—Subsection 1. At present, a freeze order made under clause 16 (1) (b) applies only to issuers. The amendment extends the power to make freeze orders under the said clause to any person or company.

Subsection 2. At present, a freeze order made under section 16 can be made only in respect of funds and securities. The amendment extends the power to make such orders to include orders freezing all other property of a person or company against whom an order is made.

Subsections 3 and 4. The amendments are complementary to the amendments to subsection 16 (1) of the Act.

SECTIONS 8, 9 AND 10. The proposed section 18a and the amendments to sections 19 and 20 of the Act provide for Commission recognition of, and oversight over, self-regulatory bodies such as the Ontario District of the Investment Dealers Association of Canada. Under the present Act, Commission oversight is limited to the rules and regulations in respect of practice and procedure on audits of members.

SECTION 11. The amendment clarifies a vague pronominal reference.

SECTION 12.—Subsection 1. The amendment clarifies that the exemption from the requirements for registration applies to sheriffs acting under the *Execution Act*.

Subsection 2. The exemption from registration requirements under paragraph 3 of subsection 34 (1) of the Act will be extended to subsidiaries of banks, loan corporations, trust companies and insurance companies.

Subsection 3. The exemption available under this clause provides that a trade is exempt from the registration requirements where the purchaser purchases as principal at least \$97,000 worth of the security. The clause is amended to require that an offering memorandum be furnished if the seller is one of the persons or companies mentioned in the proposed subclauses (i) to (iii).

Subsections 4 and 5. The exemption from registration requirements now set out in clauses 140 (d) and (e) of Regulation 910 of Revised Regulations Ontario, 1980, will be transferred to the Act.

Subsection 6. The exemption from registration requirements under paragraph 12 of subsection 34 (1) will be extended to trades by an issuer in securities as an incidental to the dissolution of the issuer.

Subsection 7. The exemption from registration requirements under subparagraph ii of paragraph 15 will be extended to include a type of merger known as a three-cornered merger.

Subsection 8. The re-enactment incorporates the substance of section 20 of Regulation 910 of Revised Regulations of Ontario, 1980, into the Act. The amendment clarifies that solicitations and purchases in all jurisdictions are to be aggregated for the purpose of determining if the requirements for the exemption in paragraph 21 of subsection 34 (1) have been met and extends the exemption to senior officers and directors of affiliates of an issuer.

Subsection 9. The amendments incorporate into the Act the substance of certain exemptions from registration requirements now contained in clause 14 (g) and section 140 of Regulation 910 of Revised Regulations of Ontario, 1980. Registration will not be required where the trade is,

- (a) among controlling security holders of an issuer in the securities of that issuer;
- (b) by an issuer in its securities to its promoters and trades in the securities of the issuer among its promoters;
- (c) among the initial purchasers under the limited offering exemption in paragraph 21 or 30 of subsection 34 (1) in the securities of the issuer taken down on the limited offering;
- (d) by an issuer pursuant to a plan made available to its security holders permitting the security holder to elect that dividends or interest in respect of the issuer's securities be used to purchase securities of the issuer which are either publicly traded or redeemable at the holder's option;
- (e) by offerees responding to a take-over bid or issuer bid;
- (f) among dealers each of whom is registered in this or another jurisdiction in exchange-traded stock options traded on exchanges recognized by the Commission;
- (g) by a trust company through its offices in securities of a mutual fund promoted, managed and administered by a trust company;
- (h) in government incentive securities.

Subsection 10. The amendment incorporates into the Act the substance of subsection 19 (1) of Regulation 910 of Revised Regulations of Ontario, 1980, which made the exemption from registration for trades in debt instruments issued by a financial institution unavailable to those instruments ranking junior in right of payment to deposits held by the financial institution.

Subsection 11. The amendment incorporates into the Act the exemption of clause 14 (a) of Regulation 910 of Revised Regulations of Ontario, 1980, for trades in the four described types of variable insurance contracts.

Subsection 12. The proposed clause 34 (3) (a) has the same effect as the present subsection 34 (3). The proposed clause (b) deems a portfolio manager to be purchasing as principal when trading for fully managed accounts.

The proposed subsection 34 (4) is complementary to the proposed paragraph 16 of subsection 34 (2).

SECTION 13. The proposed re-enactment of subsection 35 (6) is set out below showing underlined the proposed change:

- (6) *Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of, and, to the extent of his knowledge after having made due inquiry, sufficient further particulars to identify, the person or company from or to or through whom the security was bought or sold.*

The amendment reflects the fact that identification by name only may not be sufficient to identify a person.

SECTION 14. The re-enactment clarifies that subsection 38 (2) applies only to registered dealers.

SECTION 15. The present section 41 requires that a registered dealer publish the names of those persons who have at least a 5 per cent interest in their capital on documents containing any offer or solicitation respecting a trade in securities and in preliminary prospectuses and prospectuses. The proposed re-enactment requires that a dealer provide its customers, on request, with an annual financial statement of the dealer together with a recent list of the names of the partners or directors and senior officers of the dealer.

SECTION 16. The present subsection 48 (2) requires that, where securities registered in the name of a registrant are otherwise beneficially owned, the registrant must pass on proxy material to the beneficial owner if the issuer or beneficial owner has agreed to pay the reasonable costs incurred by the registrant. The amendment will extend this requirement to issuer bid and take-over bid related materials and to proxy materials prepared by non-management personnel if the issuer or other sender or the beneficial owner has agreed to pay the dealer's costs in so doing.

SECTIONS 17 AND 18. Section 51 of the Act is now spent. The re-enactment of subsection 52 (1) is complementary to the repeal of section 51.

SECTION 19. The proposed clause 59 (1) (a) has the same effect as the present section 59. The proposed re-enactment of section 59 requires that every prospectus and offering memorandum contain statements respecting purchasers' rights and the limits of those rights.

SECTION 20. The reference to "distribution to the public" is deleted because it is now obsolete.

SECTION 21. The amendment corrects an internal reference.

SECTION 22.—Subsections 1 to 6. The exemptions from prospectus requirements are amended in the same manner as the similar exemptions from registration requirements set out in subsections 12 (2), (3), (6), (7), (8) and (9) of the Bill.

Subsection 7. The proposed re-enactment of subsection 71 (2) has the same effect as the amendment to subsection 34 (3) as set out in subsection 12 (11) of the Bill.

The proposed subsection 71 (2a) requires two copies of every offering memorandum to be filed with the Commission.

Subsection 8. The amendment extends the requirement for the filing of a report to trades made under the proposed clauses 71 (1) (*m*), (*v*) and (*y*).

Subsection 9. The proposed subsection 71 (4) makes statutory hold periods, as defined in the proposed subsection 71 (12), applicable to securities acquired in a trade between limited offering purchasers and securities acquired pursuant to the government incentive security exemption and those acquired in a trade between parties who purchased under the government incentive security exemption.

Controlling security holders of an issuer will not be permitted to satisfy the conditions for resale under subsection 71 (4) as an alternative to meeting those prescribed under subsection 71 (7). The proposed subsection 71 (4) also deletes the adjective "unusual" in referring to proscribed efforts to prepare the market for the securities to be sold.

The new subsection 71 (4*a*) imposes a statutory hold period on securities acquired pursuant to the exercise of a right to purchase, convert or exchange previously acquired in connection with an initial trade in securities where the resale of the last mentioned securities would itself be subject to a statutory hold period. The hold periods on the converted securities run from the date of the initial trade. Subsection 71 (4*a*) also imposes a second hold period of sixty days following the giving of notice to the Commission of the exercise of the right to purchase, convert or exchange where the vendor and related parties own, or would own on the exercise of all currently exercisable rights of conversion held by them more than 5 per cent of the subject class of securities. This second hold period may run concurrently with the first depending upon when the vendor chooses to exercise the right of purchase, conversion or exchange.

The present subsection 71 (5) requires that every vendor of securities determine, at the time of resale, that the issuer is not in default of any requirements under the Act. The amendment limits this requirement to "persons in a special relationship to the issuer" as defined in section 75.

The proposed subsection 71 (5) also adds securities acquired pursuant to rights offering under clause 71 (1) (*h*) and securities acquired pursuant to dividend and interest reinvestment plans under the proposed clause 71 (1) (*w*) to the list of first trades that are subject to resale restrictions.

The proposed subsection 71 (5*a*) provides that qualification of convertible securities by a prospectus will also qualify, for immediate resale, the securities obtained on conversion, if they are listed on a recognized stock exchange. This exemption is subject to a hold period of sixty days following the giving of notice to the Commission of the exercise of the right to convert where the vendor and related parties would own on the exercise of all currently exercisable rights of conversion held by them more than 5 per cent of the subject class of securities.

The proposed subsection 71 (5*b*) incorporates into the Act the substance of clause 16 (*a*) of Regulation 910 of Revised Regulations of Ontario, 1980 which provides that a trade in securities acquired pursuant to a distribution, where a securities exchange take-over bid circular was employed, is not itself a distribution.

The proposed re-enactment of subsection 71 (6) incorporates into the Act the substance of clause 16 (*b*) and subsections 17 (1) and (3) of Regulation 910 of Revised Regulations of Ontario, 1980, which provide that a trade in securities acquired by an incorporator of an issuer is not subject to the prospectus filing requirement of the Act where the purchaser is a promoter of the issuer but that the promoter's resale is subject to the conditions and procedures in subsection 71 (7) as is his resale of securities taken down from the issuer or acquired from another promoter.

Subsections 10 and 11. The present subsection 71 (7) of the Act would, but for the regulations, have permitted a distribution from a control block to be made without a prospectus if the following conditions were met:

1. The issuer had been a reporting issuer for eighteen months and is not in default of any requirement under the Act.
2. Prior to, and periodically through the distribution, the seller made prescribed disclosure as to the particulars of his control position and his intended trade and affirmed his lack of knowledge of any material change or other material adverse information regarding the issuer not generally disclosed.
3. The seller filed accelerated insider reports after the completion of each trade.
4. No unusual effort was made to prepare the market or to create a demand for the securities.

In addition, the Act was intended to operate so that if the securities to be distributed by a controlling security holder had been previously acquired pursuant to exemptions referred to in subsection 71 (4), the conditions in that subsection, including the prescribed hold periods, had to be satisfied by him.

The Commission has expressed its concern that abuses might arise through the use of subsection (7) as a technique to enable reporting issuers to effect "back-door" underwritings without a prospectus and has acknowledged the lack of precision to the limitations on market grooming activities.

The proposed amendments incorporate, with modifications, section 19c of Regulation 910 of Revised Regulations of Ontario, 1980, into the Act and address the concerns of the Commission by making subsection (7) and the proposed subsections (7a) to (7c) into a complete code governing resales by an issuer's controlling security holders and by adding the following conditions to those described above:

1. In all events, the securities, or that number of securities of the class to be distributed, must have been held for at least six months.
2. The securities acquired pursuant to exemptions referred to in subsections 71 (4) and (4a) must have been held for the applicable hold periods.
3. Where 5 per cent or more of the securities owned by the control person have been distributed pursuant to subsection 71 (7) within the previous twelve-month period, and the seller has acquired any securities of the class to be distributed pursuant to an exempt trade that is referred to in subsection 71 (4), no security of that class, however and whenever acquired, may be distributed until all securities of that class have been held by the controlling security holder for the applicable hold periods which run from the last exempt trade.

The proposed re-enactment of clause 71 (7) (c) deletes "unusual" before "effort" in the first line.

The proposed subsection 71 (12) is complementary to the enactment of subsections 71 (4a) and (5a).

SECTION 23. A statement of material facts will be required to contain the same statements as are required in a prospectus and in an offering memorandum under section 59.

SECTION 24. The amendment clarifies the wording with respect to making use of knowledge of material changes that have not been generally disclosed.

SECTION 25.—Subsection 1. The proposed re-enactment of clause 75 (1) (b) clarifies that the clause applies to individuals and to companies.

Subsection 2. The amendment extends the application of the definition of “special relationship” to directors, officers and employees of all issuers that are insiders or affiliates of a reporting issuer.

Subsection 3. The proposed clause 75 (3) (e) has the effect of extending the bar against trading with non-disclosed inside information or informing others of such information to a person who has acquired the information from a person or company referred to in clauses (a) to (d).

SECTION 26. The proposed section 75a prohibits “tipping” others as to one’s intention to make a take-over bid or issuer bid before such intention is generally disclosed. It also bars those in a special relationship with the intending party from tipping others. Civil liability for tipping in similar circumstances is provided by a new section 131a.

SECTION 27.—Subsection 1. The requirement for certification of interim financial statements is deleted.

Subsection 2. The re-enactment of subsection 76 (2) clarifies that the clauses apply only to mutual funds in Ontario. The requirement for certification of interim financial statements is also deleted.

The proposed subsection 76 (3) will allow exceptions to the general rule under subsection 76 (2) which requires that interim financial statements include comparative statements.

SECTION 28. The amendments to subsections 77 (2) to (4) clarify that the subsections apply to mutual funds in Ontario.

The proposed subsection 77 (5) will allow exceptions to the general rule under subsection 77 (1) which requires the filing of comparative statements for the period referred to in clause 77 (1) (b).

SECTION 29. The proposed clause 82 (a) has the same effect as the present section 82.

The proposed clause 82 (b) permits the Commission to deem a reporting issuer to have ceased to be a reporting issuer, even though it is not eligible for relief under clause 82 (a), if no securities were distributed under the prospectus, the filing of which made it a reporting issuer.

SECTION 30. Section 85 now requires information circulars to be delivered by mail to the security holders whose proxies are solicited. The amendments will permit delivery by prepaid mail or personal delivery to the address of a security holder whose proxy is solicited or communication by a method approved by the director if delivery by mail or personal delivery is impractical.

SECTION 31.—Subsections 1, 2 and 4. The definition of “director’s circular” is considered to be redundant and is therefore repealed. The definitions of “issuer bid” and “take-over bid” are simplified by the introduction of the proposed definition of “offer to purchase”. Because of the extended definition given to “voting security” under the proposed clause 88 (1) (m), take-over bids will include offers made for securities convertible into voting securities. The take-over bid threshold level has been changed from 20 per cent of the currently outstanding voting securities to 10 per cent of the voting rights attaching to the voting securities that would be outstanding on a fully diluted basis.

Subsection 3. The amendment clarifies, in the case of an issuer bid, that an "offeree" means a person whose latest address, as shown on the books of the issuer, is in Ontario.

Subsection 5. The amendment defines "voting security" for the purpose of Part XIX as including securities convertible into voting securities.

SECTION 32. Subsection 89 (1) sets out certain conditions that apply to issuer bids and take-over bids. Paragraph 10 now applies only to take-over bids. Under the proposed re-enactment, the condition set out in paragraph 10 will also apply to both issuer bids and take-over bids.

The amendment to paragraph 11 and clause (b) of paragraph 12 clarifies that the reference to "the company" is a reference to "the offeree company".

The proposed clause (d) of paragraph 12 provides that an offeror will be able to make it a condition of his offer that he has the right not to take up and pay for deposited securities if it is contrary to law to do so.

The proposed paragraph 15 of subsection 89 (1) and the proposed subsection 89 (4) will permit communications to be made by mail, personal delivery or in a manner approved by the Director.

SECTION 33. The amendment clarifies that subsection 90 (1) applies to all securities and not just to shares.

SECTION 34. A follow-up offer, where a take-over bid has been effected under the private-agreement exemption at a premium, will not be required if the offeror holds less than 20 per cent of the voting securities of the offeree company after effecting the take-over bid.

SECTION 35. The repeal of section 92 is complementary to the enactment of paragraph 15 of subsection 89 (1) and the enactment of subsection 89 (5).

SECTION 36. The amendment clarifies that the section applies to issuer bids.

SECTION 37. The re-enactment of subsection 96 (5) clarifies when the board of directors must advise offerees of its recommendation respecting acceptance or rejection of an offer. The repeal of subsection 96 (6) is complementary to the enactment of paragraph 15 of subsection 89 (1) and the enactment of subsection 89 (5).

SECTION 38. The proposed section 96a requires the sending of an amendment to a directors' or director's or officer's circular where a significant change has occurred in the information contained in the circular.

SECTION 39. At present sections 97 and 98 apply only to take-over bid circulars, issuer bid circulars and directors' circulars.

The re-enactment of section 97 extends the application of that section to require that,

- (a) a notice of change or variation to a take-over bid circular and an amendment to a directors' circular must be approved and the delivery thereof authorized in a similar manner as the take-over bid circular or directors' circular;
- (b) the contents of a recommendation or a decision not be made a recommendation as to acceptance or reject a take-over bid communicated subsequently to a directors' circular must be approved by the directors; and

- (c) a directors' circular or a directors' recommendation or decision not be made a recommendation contain a statement that the contents have been approved and delivery authorized by the directors.

The re-enactment of section 98 requires that any notice of change or variation to an issuer bid circular must be approved and the delivery thereof authorized in a similar manner as the issuer bid circular and also require that an issuer bid circular contain a statement that the contents thereof have been approved and delivery authorized by the directors of the issuer.

SECTION 40. The re-enactment of clause 101 (2) (b) is complementary to the proposed section 103a and has the effect of requiring insider reporting with respect to transactions in all options.

SECTION 41. The proposed re-enactment of section 102 accelerates the periods within which initial insider reports must be filed and within which reports of changes in holdings must be reported where the change is 1 per cent or greater.

Section 103 now requires a person or company that acquires 20 per cent of the voting securities of a reporting issuer through a take-over bid or issuer bid that is exempted from Part XIX of the Act by subsection 88 (2) or (3) to file a report with the Commission. The re-enactment of section 103 changes the threshold requirement to the acquisition of 10 per cent of the voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of conversion or acquisition relating to voting securities.

The proposed section 103a requires that where a take-over bid is outstanding, a person, other than an offeror, who acquires 2.5 per cent or more of the voting securities of the offeree company must file a report within three days of such acquisition.

SECTION 42. The re-enactment of section 116 reflects a change in the Commission's publishing schedule for its Bulletin. The Bulletin is now published on a weekly basis.

SECTION 43. The re-enactment of subsection 124 (1) extends the Commission's power to deny to any person or company the exemptions from registration given to certain classes of advisors under section 33 of the Act and the exemptions from the registration and prospectus filing requirements under the regulations.

SECTION 44. The proposed section 126a provides for civil liability if an offering memorandum or an amendment thereto contains a misrepresentation.

SECTION 45. The proposed re-enactment of subsections 127 (1) to (3) adds amendments to circulars to the documents that are subject to the civil liability provision. The amendment also extends liability for misrepresentation in a directors' circular or in an amendment to such circular to every person who was a director at the time the circular or amendment was signed.

SECTION 46. The proposed clause 131 (7) (e) has the effect of extending the liability for trading on the basis of non-disclosed inside information or for informing others of such information to a person or company who has acquired the information from a person or company referred to in clauses 131 (7) (a) to (d).

SECTION 47. The proposed section 131a is complementary to the enactment of section 75a and imposes liability for "tipping" others as to one's intention to make a take-over bid or issuer bid before such intention is generally disclosed. It also imposes like liability with respect to persons in a special relationship to the intending party.

SECTION 48. The proposed subsection 135 (2) establishes a special limitation period for commencing an action to enforce a right created under the proposed section 126*a*.

SECTION 49. The proposed subsection 138 (2*a*) extends immunity from liability to experts appointed under section 5 of the Act.

SECTION 50. The proposed section 138*a* clarifies the application of the Act to the Crown.

SECTION 51. The proposed paragraph 8*b* is complementary to the re-enactment of section 41.

SECTION 52. The proposed re-enactment of section 140 clarifies the power of the Commission to revoke or vary orders made by it under predecessors of the present Act and regulations.

BILL 176

1982

An Act to amend the Securities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subparagraphs i and iv of paragraph 2 of subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor: s. 1 (1),
par. 2,
amended

i. any issuer of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the issuer for the time being outstanding,

iv. any relative of such person, including his spouse, where the relative has the same home as such person,

v. any relative of the spouse of such person where the relative has the same home as such person.

- (2) Subsection 1 (1) of the said Act is amended by adding thereto the following paragraph: s. 1 (1),
amended

2a. "board of directors" where used in relation to an issuer that is not a company includes persons acting in a capacity similar to that of a board of directors of a company.

- (3) Paragraph 11 of the said subsection 1 (1) is amended, s. 1 (1),
par. 11,
amended

(a) by repealing subparagraph v;

(b) by striking out "on and after the 15th day of March, 1981" in the thirty-second line; and

(c) by inserting after “(4)” in the thirty-third line “(4a)”.

s. 1 (1),
par. 14,
repealed

(4) Paragraph 14 of the said subsection 1 (1) is repealed.

s. 1 (1),
amended

(5) The said subsection 1 (1) is further amended by adding thereto the following paragraph:

15a. “government incentive security” means a security of a type designated by the Commission for the purposes of paragraph 31 of subsection 34 (1) or clause 71 (1) (y) and designed to enable the holder thereof to receive a grant or other monetary benefit, such as a right to a credit against taxes or a deduction in the determination of income for tax purposes, pursuant to provisions of a statute or a regulation of Canada or Ontario or another province or territory of Canada.

s. 1 (1),
par. 16,
amended

(6) Paragraph 16 of the said subsection 1 (1) is amended by striking out “personal” in the sixth line.

s. 1 (1),
amended

(7) The said subsection 1 (1) is further amended by adding thereto the following paragraph:

26a. “offering memorandum” means a document purporting to set forth information concerning the business and affairs of an issuer that has been prepared primarily for delivery to and review by prospective purchasers so as to assist those purchasers to make an investment decision in respect of securities being sold in a distribution to which section 52 or 61 would apply but for the availability of one or more of the exemptions contained in clause 71 (1) (c), (d), (p) or (y) but does not include,

i. a document setting out current information about an issuer for the benefit of prospective purchasers familiar with the issuer through prior investment or business contacts except where an exemption under clause 71 (1) (d) or (y) is being relied upon, or

ii. an annual report, interim report, information circular, take-over bid circular, issuer bid circular, prospectus or other such document, the content of which is prescribed by statute or regulation.

s. 1 (1),
par. 31,
amended

(8) Subparagraph ii of paragraph 31 of the said subsection 1 (1) is repealed and the following substituted therefor:

- ii. the number of its shareholders, exclusive of persons who are in its employment or the employment of an affiliate and exclusive of persons who, having been formerly in the employment of the company or the employment of an affiliate, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and

(9) Subparagraph ii of paragraph 32 of the said subsection 1 (1),
exclusive of clauses (b) and (c), is repealed and the following
substituted therefor:

s. 1 (1),
par. 32,
amended

- ii. administered by a trust company registered under the *Loan and Trust Corporations Act* and has no promoter other than one or more of such trust companies or one or more affiliates of such a trust company and has no manager other than one or more of such trust companies, one or more of such affiliates or a person or company who is a portfolio manager or but for the applicability of an exemption under this Act or the regulations would be obliged to be registered as a portfolio manager and consists of,

R.S.O. 1980,
c. 249

- (a) a pooled fund maintained solely to serve retirement savings plans, home ownership savings plans, retirement income funds, deferred profit sharing plans, pension plans, or other such plans registered under the *Income Tax Act* (Canada);

R.S.C. 1952,
c. 148

(10) Subparagraph iv of paragraph 38 of the said subsection 1 (1)
is repealed and the following substituted therefor:

s. 1 (1),
par. 38,
amended

- iv. to which the *Business Corporations Act* applies or applied at any time after the 8th day of December, 1980 and which, for the purposes of that Act, is or was, as the case may be, offering

R.S.O. 1980,
c. 54

its securities to the public so long as any of those securities in respect of which a prospectus, statement of material facts or securities exchange take-over bid circular has been filed under this Act, or any predecessor of this Act, or in respect of which a prospectus had been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, are outstanding or any securities into which such securities are converted are outstanding, or

s. 1 (2-5),
re-enacted

- (11) Subsections 1 (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

Deemed
affiliate

- (2) An issuer shall be deemed to be an affiliate of another issuer if one of them is the subsidiary of the other or if both are subsidiaries of the same issuer or if each of them is controlled by the same person or company.

Deemed
control

- (3) An issuer shall be deemed to be controlled by a person or company or by two or more persons or companies if,

- (a) voting securities of the issuer carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the person or company or by or for the benefit of the persons or companies; and
- (b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the issuer.

Deemed
subsidiary

- (4) An issuer shall be deemed to be a subsidiary of another issuer if,

- (a) it is controlled by,
 - (i) that other, or
 - (ii) that other and one or more issuers each of which is controlled by that other, or
 - (iii) two or more issuers each of which is controlled by that other; or
- (b) it is a subsidiary of an issuer that is that other's subsidiary.

(5) A person shall be deemed to own beneficially securities Deemed beneficial ownership
beneficially owned by an issuer controlled by him or by an
affiliate of such issuer.

2. Subsections 2 (2) and (3) of the said Act are repealed and the following substituted therefor: s. 2 (2, 3), re-enacted

(2) The Commission shall be composed of a Chairman and not more than ten or less than eight other members, appointed by the Lieutenant Governor in Council, one of whom may be designated as Deputy Chairman and two of whom may be designated as Vice-Chairmen. Appointments

(3) Two members of the Commission constitute a quorum and the Commission has and shall be deemed always to have had the authority to sit in two or more panels simultaneously so long as a quorum of the Commission is present on each panel. Quorum

3. Subsection 3 (2) of the said Act is amended by striking out “Vice-Chairman” in the first line and inserting in lieu thereof “the Deputy Chairman, a Vice-Chairman”. s. 3 (2), amended

4. Subsection 5 (2) of the said Act is repealed and the following substituted therefor: s. 5 (2), re-enacted

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in a person appointed to make an investigation under section 11 and subsections 11 (3) and (4) apply with necessary modifications. Submission to experts

- 5.—(1) Clause 11 (1) (b) of the said Act is amended by striking out “trade in” the second line and inserting in lieu thereof “transaction relating to”. s. 11 (1) (b), amended

(2) Clause 11 (3) (b) of the said Act is amended by striking out “stock” in the tenth line and in the twelfth line and inserting in lieu thereof in each instance “securities”. s. 11 (3) (b), amended

6. Section 13 of the said Act is amended by adding thereto the following subsection: s. 13, amended

(2) A person giving evidence at an investigation made under subsection (1) may be represented by counsel. Counsel

- 7.—(1) Clause 16 (1) (b) of the said Act is repealed and the following substituted therefor: s. 16 (1) (b), re-enacted

- (b) where it is about to make or has made an order under section 123 that trading in respect of any securities by any person or company shall cease.

s. 16 (1),
amended

- (2) Subsection 16 (1) of the said Act is amended,

- (a) by striking out “or securities” in the twenty-second line, in the twenty-third line, in the twenty-fifth line and in the twenty-seventh line and inserting in lieu thereof in each instance “securities or other property”; and

- (b) by striking out “or security” in the thirty-third and thirty-fourth lines and inserting in lieu thereof “security or other property”.

s. 16 (2),
amended

- (3) Subsection 16 (2) of the said Act is amended by striking out “or securities” in the third line and inserting in lieu thereof “securities or other property”.

s. 16 (3),
amended

- (4) Subsection 16 (3) of the said Act is amended by striking out “or security” in the fifth line and inserting in lieu thereof “security or other property”.

s. 18a,
enacted

- 8.** Part VIII of the said Act is amended by adding thereto the following section:

Self-regulating
associations
and
organizations

18a.—(1) Upon the application of an association or organization representing registrants, the Commission may in writing recognize the applicant as a self-regulatory body where it is satisfied that to do so would be in the public interest and that the applicant has satisfied or can satisfy all conditions with respect to self-regulatory bodies prescribed under the regulations and the recognition shall be subject to such terms and conditions as the Commission may impose.

Idem

- (2) An applicant under subsection (1) need not be incorporated.

Idem

- (3) A self-regulatory body recognized under subsection (1) shall, subject to this Act and the regulations and any decision made by the Commission, regulate the standards and business conduct of its members.

Commission's
powers

- (4) The Commission may, where it appears to it to be in the public interest, make any decision,

- (a) with respect to any by-law, rule or regulation of a self-regulatory body recognized under subsection (1);

- (b) with respect to any direction, decision, order or ruling made under any by-law, rule or regulation of a self-regulatory body recognized under subsection (1); or
- (c) with respect to any practice of a self-regulatory body recognized under subsection (1).

(5) Any person or company directly affected by any direction, decision, order or ruling made under any by-law, rule or regulation or a self-regulatory body recognized under subsection (1) may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

Review of
decisions of
association or
organization

9. Section 19 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

s. 19,
amended

19. Every stock exchange in Ontario recognized by the Commission under section 22 and, where the Commission determines that it is appropriate, every self-regulatory body recognized by the Commission under section 18a,

Panel of
auditors

10. Section 20 of the said Act is repealed and the following substituted therefor:

s. 20,
re-enacted

20.—(1) Every stock exchange in Ontario recognized by the Commission under section 22 and, where the Commission determines that it is appropriate, every self-regulatory body recognized by the Commission under section 18a, shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause 19 (a) and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, association, district association or association auditor, as the case may be.

Audits

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission under section 22 and the by-laws, rules and regulations of every self-regulatory body recognized by the Commission under section 18a in respect of the practice and procedure of the examinations under subsection (1) are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission.

Audit
by-laws

s. 33,
amended

- 11.** Section 33 of the said Act is amended by striking out “their principal business or occupation” in the twenty-third line and inserting in lieu thereof “the person’s or company’s principal business or occupation as described in clauses (a) to (d)”.

s. 34 (1),
par. 1,
amended

- 12.—(1)** Paragraph 1 of subsection 34 (1) of the said Act is amended by inserting after “(Canada)” in the seventh line “or by a sheriff under the *Execution Act*”.

s. 34 (1),
par. 3,
amended

- (2) Subparagraphs iv and v of paragraph 3 of the said subsection 34 (1) are repealed and the following substituted therefor:

iv. a subsidiary of any of the parties referred to in subparagraph i, ii or iii where the bank, loan corporation, trust company or insurance company, as the case may be, owns beneficially all of the voting securities of such subsidiary,

v. Her Majesty in right of Canada or any province or territory of Canada, or

vi. any municipal corporation or public board or commission in Canada.

s. 34 (1),
par. 5,
re-enacted

- (3) Paragraph 5 of the said subsection 34 (1) is repealed and the following substituted therefor:

5. A trade where the purchaser purchases as principal if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000 but this exemption is not available if the seller is,

i. the issuer or an affiliate of the issuer,

ii. a person, company or combination of persons or companies having the relationship to the issuer described in subparagraph iii of paragraph 11 of subsection 1 (1), or

iii. an underwriter who, acting as underwriter, acquired the securities from a person or company described in subparagraph i or ii,

unless an offering memorandum is sent by prepaid mail or delivered by the seller or a person or company acting on behalf of the seller to the purchaser before an agreement of purchase and sale is entered into with such purchaser.

- (4) Paragraph 10 of the said subsection 34 (1) is amended by adding at the end thereof "or by a person or company with a registered dealer who is acting as principal". s. 34 (1),
par. 10,
amended
- (5) The said subsection 34 (1) is amended by adding thereto the following paragraph: s. 34 (1),
amended
- 11a. A trade in a bond or debenture by way of an unsolicited order given to a bank to which the *Bank Act* (Canada) applies or to a trust company registered under the *Loan and Trust Corporations Act* if the bank or trust company is acting as principal and the bond or debenture is acquired by the bank or trust company for purposes of the trade from, or sold by the bank or trust company following the trade to, a registered dealer. 1980-81,
c. 40 (Can.)
R.S.O. 1980,
c. 249
- (6) Subparagraph ii of paragraph 12 of the said subsection 34 (1) is amended by inserting after "reorganization" in the third and fourth lines "dissolution". s. 34 (1),
par. 12,
amended
- (7) Subparagraph ii of paragraph 15 of the said subsection 34 (1) is repealed and the following substituted therefor: s. 34 (1),
par. 15,
amended
- ii. a statutory procedure under which one company takes title to the assets of another company which in turn loses its existence by operation of law, or under which one company merges with one or more other companies.
- (8) Paragraph 21 of the said subsection 34 (1) is repealed and the following substituted therefor: s. 34 (1),
par. 21,
re-enacted
21. A trade made by an issuer with a view to the sale of securities of its own issue if solicitations, in all jurisdictions including Ontario, are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers in all jurisdictions including Ontario and,
- i. each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase, except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six-month period,
- ii. each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

- A. an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer; or
- B. a senior officer or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer,

iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

iv. no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this paragraph within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

s. 34 (1),
par. 23,
re-enacted

(9) Paragraph 23 of the said subsection 34 (1) is repealed and the following substituted therefor:

- 23. A trade in a security of an issuer where each of the parties to the trade is a person or company who is, as regards such issuer, a person or company referred to in subparagraph iii of paragraph 11 of subsection 1 (1).
- 24. A trade by an issuer in securities of its own issue with a promoter of the issuer or by a promoter of the issuer in securities of the issuer with another promoter of the issuer.
- 25. A trade in securities of an issuer previously disposed of by the issuer pursuant to the exemption in paragraph 21 or 30 where each of the parties to the trade is one of the not more than twenty-five purchasers referred to in

paragraph 21 or one of the not more than fifty purchasers referred to in paragraph 30.

26. A trade by an issuer of equity securities pursuant to a plan made available by that issuer to all holders of a class of publicly traded securities of the issuer the last address of whom as shown in the books of the issuer is in Ontario, which plan permits the holder to direct that dividends or interest, paid in respect of securities of the issuer's own issue be applied to the purchase from the issuer of equity securities of the issuer's own issue of a class that is publicly traded or any other securities of the issuer which are redeemable at the option of the holder but if the plan is intended to cover a period of more than one year, it shall be a requirement of the plan that notice of the right to withdraw from participation in the plan is mailed or delivered to the holder at least annually.
27. A trade made by an offeree described in clause 88 (1) (f) in securities which are being disposed of to a person or company making a take-over bid or issuer bid.
28. A trade made through the facilities of a stock exchange recognized by the Commission for the purposes of this paragraph, where,
 - i. the trade is effected in whole or part by means of telephone or other telecommunications equipment linking the facilities of that stock exchange with the facilities of another stock exchange recognized by the Commission for the purposes of this paragraph,
 - ii. the trade is made in a security of a class or type designated by the Commission as exempt for the purposes of this paragraph, and
 - iii. each of the parties to the trade is registered as a dealer, or in a similar capacity, under the securities legislation of a province or territory of Canada.
29. A trade by a trust company registered under the *Loan and Trust Corporations Act* where the trade is made through its offices in the securities of a mutual fund promoted, managed and administered by such trust company provided no sales or other acquisition charges are levied. R.S.O. 1980,
c. 249

30. A trade made by a promoter of an issuer or by an issuer in a government incentive security of the issuer's own issue, if solicitations, in all jurisdictions including Ontario, are made to not more than seventy-five prospective purchasers resulting in sales to not more than fifty purchasers in all jurisdictions including Ontario and,

i. each purchaser to whom securities are sold in reliance on this exemption has been supplied with information identifying every officer and director of the issuer and every promoter thereof and giving the particulars of such of their professional qualifications and associations during the immediately preceding five years as are relevant to the undertaking being financed and indicating which of the directors will be devoting his full time to the affairs of the issuer,

ii. each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

A. an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer; or

B. a senior officer or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer,

iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

iv. each purchaser to whom securities are sold in reliance on this exemption is furnished with an offering memorandum before an agreement of

purchase and sale is entered into with such purchaser.

31. A trade in respect of which the regulations provide that registration is not required.

- (10) Clause (c) of paragraph 1 of subsection 34 (2) of the said Act is repealed and the following substituted therefor: s. 34 (2),
par. 1 (c),
re-enacted

(c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*, other than bonds, debentures or other evidences of indebtedness which are subordinate in right of payment to deposits held by the issuer or guarantor of such bonds, debentures or other evidences of indebtedness. 1980-81,
c. 40 (Can.),

R.S.O. 1980,
cc. 249, 218

- (11) The said subsection 34 (2) is amended by adding thereto the following paragraph: s. 34 (2),
amended

14a. Variable insurance contracts issued by a company licensed under the *Insurance Act* if the variable insurance contract is,

- i. a contract of group insurance,
- ii. a whole life insurance contract providing for the payment at maturity of an amount not less than three-quarters of the premium paid up to the age of seventy-five for a benefit payable at maturity,
- iii. an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds, or
- iv. a variable life annuity.

- (12) Subsection 34 (3) of the said Act is repealed and the following substituted therefor: s. 34 (3),
re-enacted

- (3) For the purposes of subsection (1), Deemed
principal

(a) a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it;

- (b) a portfolio manager or a person or company who but for the applicability of an exemption under this Act or the regulations would be obliged to be registered as a portfolio manager shall be deemed to be acting as principal when it trades as agent for accounts fully managed by it.

Interpretation

(4) For the purpose of subsection (2), “contract”, “life insurance” and “policy” have the same meaning as in section 1 of the *Insurance Act* and “group insurance” has the same meaning as in section 148 of that Act.

R.S.O. 1980,
c. 218

s. 35 (6),
re-enacted

- 13.** Subsection 35 (6) of the said Act is repealed and the following substituted therefor:

Disclosure
by agent

(6) Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of, and, to the extent of his knowledge after having made due inquiry, sufficient further particulars to identify the person or company from or to or through whom the security was bought or sold.

s. 38 (2),
re-enacted

- 14.** Subsection 38 (2) of the said Act is repealed and the following substituted therefor:

Effect of
statement

(2) A statement made in compliance with this section or clause 35 (1) (c) that a registered dealer proposes to act or has acted as principal in connection with a trade in a security does not prevent such registered dealer from acting as agent in connection with a trade of such security.

s. 41,
re-enacted

- 15.** Section 41 of the said Act is repealed and the following substituted therefor:

Statement of
financial
condition,
directors'
names, etc.

41. Every registered dealer shall, on the request of a customer, provide to the customer a copy of the most recently prepared annual statement of the dealer's financial condition, as filed with the Commission or with the self-regulatory organization of which it is a member, made up and certified as required by the regulations together with a list of the names of the partners or directors and senior officers of the dealer made up and certified as of a date not more than thirty days prior to the request and shall inform its customers on every statement of account or in such other manner as the Commission may approve that this information is available but where the Commission determines that a registered dealer or a class of registered dealers is subject to conditions of registration or to regulations imposed by a self-regulatory organization that require provision to customers in the same or some other manner of other appropriate information, the Commission may, subject to such terms and

conditions as the Commission may impose, exempt the registered dealer or class of registered dealers from the requirements of this section.

- 16.** Subsection 48 (2) of the said Act is repealed and the following substituted therefor: s. 48 (2),
re-enacted

(2) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer or of a take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular or other similar and relevant material, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or delivered to each beneficial owner of such security as registered at the record date for notice of meeting or at the date of the take-over bid or issuer bid a copy of any notice, financial statement, information circular, take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular or other similar and relevant material but the registrant or custodian is not required to send or deliver such material unless the issuer or other sender of the material or the beneficial owner of such securities has agreed to pay the reasonable costs to be incurred by the registrant or custodian in so doing. Forwarding of
information

- 17.** Section 51 of the said Act is repealed. s. 51,
repealed

- 18.** Subsection 52 (1) of the said Act is repealed and the following substituted therefor: s. 52 (1),
re-enacted

(1) No person or company shall trade in a security on his own account or on behalf of any other person or company where such trade would be a distribution of such security unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director. Prospectus
required

- 19.** Section 59 of the said Act is repealed and the following substituted therefor: s. 59,
re-enacted

59.—(1) Every prospectus, except a prospectus filed under subsection 52 (2), shall contain a statement of, Required
statements

(a) the rights given to a purchaser by sections 70 and 126;
and

(b) the limits on the time within which an action to enforce a right under section 126 must be brought.

(2) In addition to the requirements of subsection (1), every prospectus of a mutual fund in Ontario shall contain a statement of the rights given to a purchaser by section 134. Idem

- Idem
- (3) Every offering memorandum shall contain a statement of,
- (a) the rights given to a purchaser by section 126*a* and a statement that such rights are in addition to any other right or remedy available at law to the purchaser; and
 - (b) the limits on the time within which an action to enforce a right under section 126*a* must be commenced.
- s. 62 (7),
amended
- 20.** Subsection 62 (7) of the said Act is amended by striking out “or distribution to the public” in the first line.
- s. 69 (1),
amended
- 21.** Subsection 69 (1) of the said Act is amended by striking out “this Part” in the second line and inserting in lieu thereof “Part XIV”.
- s. 71 (1) (a),
(iv, v),
re-enacted
- 22.—(1)** Subclauses 71 (1) (a) (iv) and (v) of the said Act are repealed and the following substituted therefor:
- (iv) a subsidiary of any of the persons or companies referred to in subclause (i), (ii) or (iii) where the bank, loan corporation, trust company or insurance company, as the case may be, owns beneficially all of the voting securities of such subsidiary,
 - (v) Her Majesty in right of Canada or any province or territory of Canada, or
 - (vi) any municipal corporation or public board or commission in Canada,
-
- s. 71 (1) (d),
re-enacted
- (2) Clause 71 (1) (d) of the said Act is repealed and the following substituted therefor:
- (d) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000 but this exemption is not available if the seller is,
 - (i) the issuer or an affiliate of the issuer,
 - (ii) a person, company or combination of persons or companies having the relationship to the issuer described in subparagraph iii of paragraph 11 of subsection 1 (1), or
 - (iii) an underwriter who, acting as underwriter, acquired the securities from a person or company described in subclause (i) or (ii),

unless an offering memorandum is sent by prepaid mail or delivered by the seller or a person or company acting on behalf of the seller to the purchaser before an agreement of purchase and sale is entered into with such purchaser.

- (3) Subclause 71 (1) (f) (ii) of the said Act is amended by inserting after "reorganization" in the third and fourth lines "dis-
solution". s. 71 (1) (f)
(ii), amended
- (4) Subclause 71 (1) (i) (ii) of the said Act is repealed and the
following substituted therefor: s. 71 (1) (i) (ii),
re-enacted
 - (ii) a statutory procedure under which one company takes title to the assets of another company which in turn loses its existence by operation of law, or under which one company merges with one or more other companies.
- (5) Clause 71 (1) (p) of the said Act is repealed and the following s. 71 (1) (p),
re-enacted substituted therefor:
 - (p) the trade is made by an issuer with a view to the sale of securities of its own issue if solicitations, in all jurisdictions including Ontario, are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers in all jurisdictions including Ontario and,
 - (i) each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six-month period,
 - (ii) each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,
 - (A) an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on

the basis of information respecting the investment presented to him by the issuer, or

(B) a senior officer or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer,

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

(iv) no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this clause within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

s. 71 (1),
amended

(6) Subsection 71 (1) of the said Act is amended by striking out "or" at the end of clause (r) and by adding thereto the following clauses:

(t) the trade is made in a security of an issuer where each of the parties to the trade is a person or company who is, as regards such issuer, a person or company referred to in subparagraph iii of paragraph 11 of subsection 1 (1);

(u) the trade is made by an issuer in securities of its own issue with a promoter of the issuer or by a promoter of an issuer in securities of the issuer with another promoter of the issuer;

(v) the trade is made in securities of an issuer previously disposed of by the issuer pursuant to the exemption in clause (p) or (y) where each of the parties to the trade is one of the not more than twenty-five purchasers referred to in clause (p) or one of the not more than fifty purchasers referred to in clause (y);

(w) the trade is made by an issuer of equity securities pursuant to a plan made available by that issuer to all holders of a class of publicly traded securities of the

issuer the last address of whom as shown on the books of the issuer is in Ontario, which plan permits the holder to direct that dividends or interest paid in respect of securities of the issuer's own issue be applied to the purchase from the issuer of equity securities of the issuer's own issue of a class that is publicly traded or any other securities of the issuer which are redeemable at the option of the holder but if the plan is intended to cover a period of more than one year it shall be a requirement of the plan that notice of the right to withdraw from participation in the plan is mailed or delivered to the holder at least annually;

- (x) the trade is made by an offeree described in clause 88 (1) (f) in securities which are being disposed of to a person or company making a take-over bid or issuer bid; or
- (y) the trade is made by a promoter of an issuer or by an issuer in a government incentive security of the issuer's own issue, if solicitations, in all jurisdictions including Ontario, are made to not more than seventy-five prospective purchasers resulting in sales to not more than fifty purchasers in all jurisdictions including Ontario and,
 - (i) each purchaser to whom securities are sold in reliance on this exemption has been supplied information identifying every officer and director of the issuer and every promoter thereof and giving the particulars of such of their professional qualifications and associations during the immediately preceding five years as are relevant to the undertaking being financed and indicating which of the directors will be devoting his full time to the affairs of the issuer,
 - (ii) each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,
 - (A) an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the

investment presented to him by the issuer, or

(B) a senior officer or director of the issuer or of an affiliate or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer,

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

(iv) each purchaser to whom securities are sold in reliance on this exemption is furnished with an offering memorandum before an agreement of purchase and sale is entered into with such purchaser.

s. 71 (2),
re-enacted

(7) Subsection 71 (2) of the said Act is repealed and the following substituted therefor:

Deemed
principal

(2) For the purpose of subsection (1),

R.S.O. 1980,
c. 249

(a) a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it; and

(b) a portfolio manager or a person or company who but for the applicability of an exemption under this Act or the regulations would be obliged to be registered as a portfolio manager shall be deemed to be acting as principal when it trades as agent for accounts fully managed by it.

Delivery of
offering
memorandum

(2a) Two copies of an offering memorandum that is required to be furnished to a purchaser under clause (1) (d) or (y) and two copies of any offering memorandum that is sent or delivered to a purchaser under clause (1) (c) or (p) shall be delivered to the Commission concurrently with or before the date upon which a report referred to in subsection (3) of the Act is filed with the Commission.

s. 71 (3),
amended

(8) Subsection 71 (3) of the said Act is amended by striking out “(p) or (q)” in the second line and inserting in lieu thereof “(m), (p), (q), (v) or (y)”.

- (9) Subsections 71 (4), (5) and (6) of the said Act are repealed and the following substituted therefor: s. 71 (4-6),
re-enacted

(4) The first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y) is a distribution unless, First trade
deemed
distribution

- (a) the issuer of the securities is a reporting issuer and is not in default of any requirement of this Act or the regulations;
- (b) the securities have been held for the applicable hold period from the date of the initial exempt trade or the date the issuer became a reporting issuer whichever is later;
- (c) the vendor files a report within ten days prepared and executed in accordance with the regulations;
- (d) such first trade is not a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1); and
- (e) no effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

(4a) The first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 51 and 62 by subclause (1) (f) (iii), where the right to purchase, convert or exchange was previously acquired in connection with a distribution exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y) is a distribution unless, Idem

- (a) the issuer of the securities is a reporting issuer and is not in default of any requirement of this Act or the regulations;
- (b) the applicable hold period has elapsed from the date of the trade exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y) or the date the issuer became a reporting issuer whichever is later;
- (c) the vendor files a report within ten days of the trade prepared and executed in accordance with the regulations;
- (d) when the securities were acquired under subclause (1) (f) (iii) by the vendor, the number or, in the case of debt securities, principal amount, of securities of that

class or kind beneficially owned by, and that number or principal amount of such securities that would be issued or transferred on the exercise of all currently exercisable rights of purchase, conversion or exchange to, the vendor and all vendor-related parties exceeded, in aggregate 5 per cent of the total number or, in the case of debt securities, principal amount, of the outstanding securities of that class or kind, such securities have been held by the vendor for at least sixty days following the date upon which the vendor filed with the Commission, the issuer of the securities and each stock exchange upon which there was then listed and posted securities of any class or kind of the issuer of the securities a notice disclosing,

- (i) the fact of the issuance or transfer of the securities under subclause (1) (f) (iii) and particulars thereof, and
 - (ii) the date upon which the vendor then proposed to first make a trade in such securities pursuant to this subsection, or, if the vendor did not then propose to make such a trade, a statement to that effect;
- (e) such first trade is not a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1); and
- (f) no effort is made to prepare the market or create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

Idem

(5) Subject to subsections (5a) and (5b), the first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by clause (1) (f) other than securities acquired under subclause (iii) thereof in the circumstances described in subsection (4a) or clause (1) (h), (i), (j), (k), (n) or (w) and the first trade in previously issued securities of a company after the company has ceased to be a private company is a distribution except that where,

- (a) the issuer of the securities is a reporting issuer and has been a reporting issuer for at least twelve months or, in the case of securities acquired under clause (1) (i), one of the amalgamating or merged companies or one of the continuing companies has been a reporting issuer for twelve months and, where a person or company in a special relationship with the reporting issuer, as defined

in section 75, is the seller, he or it has reasonable grounds to believe that the issuer is not in default of any requirement of the Act or the regulations;

- (b) disclosure to the Commission has been made of its exempt distribution or in the case of a company that has ceased to be a private company the issuer has filed with the Commission such report with respect to its outstanding securities as may be required by the regulations; and
- (c) no effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the trade,

then such first trade is a distribution only if it is a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1).

(5a) Notwithstanding subsection (5), the first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by subclause (1) (f) (iii) where, in respect to the right to purchase, convert or exchange, a prospectus was filed by the issuer and a receipt obtained therefor is not a distribution if, Idem

- (a) the securities are listed and posted on a stock exchange recognized for this purpose by the Commission;
- (b) when the securities were acquired under subclause (1) (f) (iii) by the vendor, the number or, in the case of debt securities, principal amount, of securities of that class or kind beneficially owned by, and that number or principal amount of such securities that would be issued or transferred on the exercise of all currently exercisable rights of purchase, conversion or exchange to, the vendor and all vendor-related parties exceeded in aggregate, 5 per cent of the total number or, in the case of debt securities, principal amount, of the outstanding securities of that class or kind, such securities have been held by the vendor for at least sixty days following the date upon which the vendor filed with the Commission, the issuer of the securities, and each stock exchange upon which there was then listed and posted securities of any class or kind of the issuer of the securities, a notice disclosing,
 - (i) the fact of the issuance or transfer of the securities under subclause (1) (f) (iii) and particulars thereof, and

(ii) the date upon which the vendor then proposed to first make a trade in such securities pursuant to this subsection, or, if the vendor did not then propose to make such a trade, a statement to that effect;

(c) such first trade is not a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1); and

(d) no effort is made to prepare the market or create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

Idem

(5b) Notwithstanding subsection (5), the first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by clause (1) (j) is not a distribution if,

(a) when that exemption was relied upon, a securities exchange take-over bid circular in respect of the securities was filed by the offeror; and

(b) where a person or company in a special relationship with the reporting issuer, as defined in section 75, is the seller, he or it has reasonable grounds to believe that the issuer is not in default of any requirement of the Act or the regulations.

Idem

(6) The first trade in securities previously acquired under an exemption contained in,

(a) clause (1) (r) is a distribution;

(b) clause (1) (o) is a distribution unless the purchaser is a promoter of the issuer;

(c) clause (1) (u) or under the exemption in favour of a purchaser who is a promoter of the issuer contained in clause (b) of this subsection is a distribution unless the trade is made in accordance with the conditions and procedures described in clauses (7) (b) and (c).

s. 71 (7) (b, c),
re-enacted

(10) Clauses 71 (7) (b) and (c) of the said Act are repealed and the following substituted therefor:

(b) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations and the seller, or, where the distribution is

for the purpose of liquidating a *bona fide* debt, the debtor, unless exempted by the regulations,

- (i) has, held the securities or that number or, in the case of debt securities, principal amount, of securities of the class to be distributed for at least six months,
- (ii) has, where he acquired the securities to be distributed pursuant to an exemption contained in clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y), held the securities for the applicable hold periods,
- (iii) has, where he acquired the securities to be distributed pursuant to the exemption under sub-clause (1) (f) (iii) and the right to purchase, convert or exchange was previously acquired in connection with a distribution exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y), held the securities until the expiration of the applicable hold period from the date of the trade exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y),
- (iv) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the first trade made to carry out the distribution,
 - (A) a notice of intention to sell in the form prescribed by the regulations disclosing particulars of the control position known to him, the number of securities to be sold and the method of distribution, and
 - (B) a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

“The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securities

which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed”,

and,

- (v) files within three days after the completion of any trades a report of the trade in the form prescribed under Part XX,

if the notice required to be filed under sub-subclause (iv) (A) and the declaration required to be filed under sub-subclause (iv) (B) is renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

- (c) no effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade.

s. 71,
amended

- (11) Section 71 of the said Act is amended by adding thereto the following subsections:

Idem

- (7a) Notwithstanding subclauses (7) (b) (i), (ii) and (iii), where,

- (a) the number or, in the case of debt securities, the principal amount of the securities, distributed pursuant to subsection (7) by the seller, or, where the distribution is for the purpose of liquidating a *bona fide* debt, by the debtor, within the immediately preceding 365 days is 5 per cent or more of the number, or in the case of debt securities, principal amount, of that class of securities beneficially owned by the seller or the debtor, as the case may be; and
- (b) such seller or debtor, as the case may be, referred to in clause (a), has acquired any securities of the class to be distributed pursuant to an exemption contained in clause (1) (a), (b), (c), (d), (f), (h), (i), (j), (k), (l), (m), (n), (p), (q), (u), (v), (w) or (y),

no security of that class may be distributed by the seller until all securities of that class have been held for the applicable hold period from the date of the last such initial exempt trade.

(7b) For the purposes of subsection (7a), any securities issued or transferred upon the exercise by the seller or the debtor, as the case may be, of a right of purchase, conversion or exchange shall be deemed to have been held by the seller or the debtor, as the case may be, from the date upon which the securities to which such right of purchase, conversion or exchange attached were first acquired and all securities sold by the seller or the debtor, as the case may be, during the period of 365 days referred to in clause (7a) (a) shall be deemed to have comprised both the number or principal amount, as the case may be, of such securities in fact so sold by the seller or the debtor, as the case may be, and the number or principal amount of the securities which would be issued or transferred upon the exercise of a right of purchase, conversion or exchange attaching to the securities in fact sold. Idem

(7c) Subsection (7a) does not apply where the seller or debtor, as the case may be, acquired the securities of the class to be distributed pursuant to a distribution exempted under, Idem

(a) clause (1) (f), (h), (i), (j), (k) or (w) and made *pro rata* to all holders of securities of the class to be distributed;
or

(b) clause (1) (n) and made *pro rata* to all officers and directors.

(12) In this section,

Interpre-
tation

(a) "hold period" means,

(i) six months, where used in relation to securities that are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and that comply with the requirements of either clause 388 (1) (m) or (n) of the *Insurance Act*,

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(ii) six months, where used in relation to securities that are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer or are preferred shares of an issuer and that comply with the requirements of clause 388 (1) (k) or (m), as the case may be, of the *Insurance Act*,

(iii) twelve months, where used in relation to securities that are listed and posted for trading on a

stock exchange recognized for this purpose by the Commission or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities of any class or kind are so listed and posted, or are preferred shares of the reporting issuer whose securities of any class or kind are so listed and posted, and

- (iv) eighteen months, where used in relation to securities of a kind not described in subclause (i), (ii) or (iii);

(b) “vendor-related parties” means the associates and affiliates of the vendor and all persons and companies with whom the vendor at the time that the securities to be traded pursuant to subsection (4a) or (5a) were acquired under subclause (1) (f) (iii) intended to act in concert in making trades in securities of any class or kind of the issuer of the securities, other than any registrant engaged on the usual terms solely for the purpose of making such trades.

s. 72,
amended

- 23.** Section 72 of the said Act is amended by adding thereto the following subsection:

Required
statements

(3) Every statement of material facts referred to in clause (1) (b) shall contain a statement of the rights given to a purchaser by sections 70 and 126 and a statement of the limits on the time within which an action to enforce a right under section 126 must be commenced.

s. 74 (3) (b),
amended

- 24.** Clause 74 (3) (b) of the said Act is amended by striking out “persons with knowledge of the material change have” in the sixth and seventh lines and inserting in lieu thereof “any person or company with knowledge of the material change has”.

s. 75 (1) (b),
re-enacted

- 25.—**(1) Clause 75 (1) (b) of the said Act is repealed and the following substituted therefor:

(b) inform, other than in the necessary course of business, another person or company about a fact or change that he or it knew or ought reasonably to have known was a material fact or material change and which he or it knew or ought reasonably to have known had not been generally disclosed.

s. 75 (3) (b),
amended

- (2) Clause 75 (3) (b) of the said Act is amended by striking out “a company” in the second line and inserting in lieu thereof “an issuer”.

- (3) Subsection 75 (3) of the said Act is amended by striking out “or” at the end of clause (c), by inserting “or” at the end of clause (d) and by adding thereto the following clause: s. 75 (3),
amended

- (e) the person or company has acquired knowledge of the material fact or material change from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

- 26.** The said Act is further amended by adding thereto the following section: s. 75a,
enacted

75a.—(1) No person or company that has the intention of making a take-over bid or issuer bid, other than a take-over bid effected in reliance on an exemption under clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on an exemption under clause 88 (3) (d) or (e) shall inform, other than in the necessary course of business, another person or company about such intention which the first mentioned person or company knew or ought reasonably to have known had not been generally disclosed. Disclosure
of intention
prohibited

(2) No person or company in a special relationship with a person or company that has the intention of making a take-over bid or issuer bid, other than a take-over bid effected in reliance on an exemption under clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on an exemption under clause 88 (3) (d) or (e), shall inform, other than in the necessary course of business, another person or company about such intention which the first mentioned person or company knew or ought reasonably to have known had not been generally disclosed. Idem

(3) For the purpose of this section, a person or company is in a special relationship with another person or company where the first mentioned person or company is, Interpre-
tation

- (a) a person or company that is an insider or an affiliate of the second mentioned person or company;
- (b) a director, officer or employee of the second mentioned person or company or of a person or company that is an insider or an affiliate of the second mentioned person or company;
- (c) a person or company that has engaged, is engaging in or proposes to engage in any business or professional activities with, or on behalf of, the second mentioned person or company and thereby has acquired knowledge of the intention to make a take-over bid or issuer bid change;

(d) a person or company that is an associate of the second mentioned person or company or of any person or company referred to in clause (a), (b) or (c); or

(e) a person or company that has acquired knowledge of the intention to make a take-over bid or issuer bid from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

s. 76 (1),
amended

27.—(1) Subsection 76 (1) of the said Act is amended by striking out “and certified” in the eighteenth line.

s. 76 (2),
re-enacted

(2) Subsection 76 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Every mutual fund in Ontario shall file within sixty days of the date to which it is made up an interim financial statement,

(a) where the mutual fund in Ontario has not completed its first financial year, for the period commencing with the beginning of that year and ending six months before the date on which that year ends but, if the first financial year is less than six months in length, no interim financial statement is required to be filed; and

(b) where the mutual fund in Ontario has completed its first financial year, for the six-month period of the current financial year that commenced immediately following the last financial year, including a comparative statement to the end of the corresponding period in the last financial year,

made up as required by the regulations and in accordance with generally accepted accounting principles.

Exception

(3) Notwithstanding clause (2) (b), such interim financial statements required to be filed under that clause by a mutual fund in Ontario as are prescribed by the regulations need not include comparative statements for the corresponding period in the last financial year.

s. 77 (2),
amended

28.—(1) Subsection 77 (2) of the said Act is amended by inserting after “fund” in the third line “in Ontario”.

s. 77 (3),
amended

(2) Subsection 77 (3) of the said Act is amended by inserting after “fund” in the first line “in Ontario”.

(3) Subsection 77 (4) of the said Act is amended by inserting after "fund" in the second line and in the third line, in each case, "in Ontario". s. 77 (4),
amended

(4) Section 77 of the said Act is amended by adding thereto the following subsection: s. 77,
amended

(5) Notwithstanding subsection (1), such financial statements required to be filed under that subsection by a mutual fund in Ontario for the period referred to in clause (1) (a) as are prescribed by the regulations need not include comparative statements for the period referred to in clause (1) (b). Exception

29. Section 82 of the said Act is repealed and the following substituted therefor: s. 82,
re-enacted

82. Upon the application of, Relieving
orders

- (a) a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario; or
- (b) an issuer that is a reporting issuer by virtue of having filed a prospectus and obtained a receipt therefor under this Act but which reporting issuer has not, as at the date immediately following the lapse date of the prospectus as defined in subsection 61 (1), distributed any of the securities offered by the prospectus,

the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest.

30.—(1) Clauses 85 (1) (a) and (b) of the said Act are repealed and the following substituted therefor: s. 85 (1) (a, b),
re-enacted

- (a) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is communicated to each such security holder of the reporting issuer whose proxy is solicited;
- (b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, communicates an information circular to each such security holder whose proxy is solicited.

(2) Section 85 of the said Act is amended by adding thereto the following subsections: s. 85,
amended

Method of
communication

(3) An information circular required to be communicated under subsection (1) shall be sent to each security holder whose proxy is solicited at his latest address as shown on the books of the reporting issuer by prepaid mail or by personal delivery to that address.

Idem

(4) Where the Commission or the Director is of the opinion that it would be impractical to communicate an information circular in the manner required by subsection (3), the Commission or the Director may authorize the communication of the information circular in such manner as it or he considers likely to bring the information circular to the attention of the security holders and an information circular when communicated in the manner so authorized shall be deemed to have been communicated to the security holders.

s. 88 (1) (c),
repealed;
s. 88 (1) (d),
re-enacted

31.—(1) Clauses 88 (1) (c) and (d) of the said Act are repealed and the following substituted therefor:

(d) “issuer bid” means an offer to purchase, an offer to redeem or an offer to acquire otherwise any or all of a class of the securities of the issuer, other than debt securities that are not convertible into equity securities made by an issuer to security holders the last address of any of whom as shown on the books of the issuer is in Ontario.

s. 88 (1),
amended

(2) Subsection 88 (1) of the said Act is amended by adding thereto the following clause:

(ea) “offer to purchase” means an offer to purchase, the acceptance by a person or company of an offer to sell or a combination of an offer to purchase and an acceptance of an offer to sell.

s. 88 (1) (f),
re-enacted

(3) Clause 88 (1) (f) of the said Act is repealed and the following substituted therefor:

(f) “offeree” means a person or company to whom a take-over bid or an issuer bid is made and whose latest address as shown on the books of the offeree company or issuer is in Ontario.

s. 88 (1) (k),
re-enacted

(4) Clause 88 (1) (k) of the said Act is repealed and the following substituted therefor:

(k) “take-over bid” means an offer to purchase, directly or indirectly, voting securities of a company or other issuer made to security holders, the last address of any of whom as shown on the books of the offeree company

or other issuer is in Ontario, where the voting securities which are the subject of the offer to purchase, together with the offeror's presently owned securities, will carry, in the aggregate, 10 per cent or more of the voting rights attached to the voting securities of the company or other issuer that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities and where two or more persons or companies make offers to purchase jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities to be acquired, then the voting rights attaching to the securities owned by each of them shall be included in the calculation of the percentage that the voting rights attaching to the voting securities of the company or other issuer owned by each of them is of all voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities.

- (5) The said subsection 88 (1) is further amended by adding thereto the following clause: s. 88 (1),
amended

(m) "voting security" includes,

- (i) a security currently convertible into a voting security or into another security that is convertible into a voting security,
- (ii) a currently exercisable option or right to acquire a voting security or another security that is convertible into a voting security, or
- (iii) a security carrying an option or right referred to in subclause (ii).

- 32.—**(1) Paragraph 10 of subsection 89 (1) of the said Act is repealed and the following substituted therefor: s. 89 (1),
par. 10,
re-enacted

10. Where the offeror making a take-over bid or issuer bid intends to purchase securities that are the subject of the take-over bid or issuer bid in the market, his intention shall be set out in the take-over bid circular or issuer bid circular and, where the take-over bid or issuer bid is made for less than all of the class of securities sought that are owned by offerees, the offeror shall not reduce the number of securities he is bound or willing to take up under paragraphs 8 and 9 by the number of securities purchased in the market, but those securities shall be counted in the determination of whether a con-

dition as to the minimum number of securities the offeror is bound or willing to take up has been fulfilled.

s. 89 (1),
par. 11,
amended

- (2) Paragraph 11 of the said subsection 89 (1) is amended by inserting after "the" in the second line "offeree".

s. 89 (1),
par. 12,
amended

- (3) Paragraph 12 of the said subsection 89 (1) is amended by striking out "of the company; or" in the eighth line of clause (b) and inserting in lieu thereof "of the offeree company;" and by inserting "or" at the end of clause (c) and by adding thereto the following clause:

(d) there exists, at the time for so doing, any enforceable prohibition by virtue of a law of general application against taking up or paying for the securities deposited.

s. 89 (1),
amended

- (4) The said subsection 89 (1) is amended by adding thereto the following paragraph:

15. All communications to offerees required or permitted by this Part shall be sent to each offeree at the latest address of the offeree as shown on the books of the offeree company or, in the case of an issuer bid, as shown on the books of the offeror by prepaid mail or personal delivery to that address.

s. 89,
amended

- (5) Section 89 of the said Act is amended by adding thereto the following subsection:

Alternate
method of
communication

(4) Where the Commission or the Director is of the opinion that it would be impractical to send a communication in the manner required by paragraph 15 of subsection (1), the Commission or the Director may authorize the communication to be made in such manner as it or he considers likely to bring the communication to the attention of the offerees and a communication when made in the manner so authorized shall be deemed to have been communicated to the offerees.

s. 90 (1),
amended

- 33.** Subsection 90 (1) of the said Act is amended by striking out "shares" in the fifth line and inserting in lieu thereof "securities".

s. 91 (1),
re-enacted

- 34.** Subsection 91 (1) of the said Act is repealed and the following substituted therefor:

Follow-up
offers

(1) Where a take-over bid is effected without compliance with section 89 in reliance on the exemption in clause 88 (2) (c) and the voting securities which were the subject of the offer to purchase,

together with the offeror's presently owned securities carry, in the aggregate 20 per cent or more of the voting rights attached to the voting securities of the company or other issuer if there is a published market in the class of securities acquired and the value of the consideration paid for any of the securities acquired exceeds the market price at the date of the relevant agreement plus reasonable brokerage fees or other commissions, the offeror shall within 180 days after the date of the first of the agreements comprising the take-over bid, offer to purchase all of the additional securities of the same class owned by security holders, the last registered address of whom is in Ontario or in a uniform act province, at and for a consideration per security at least equal in value to the greatest consideration paid under any such agreements, and that offer shall be a take-over bid for purposes of this Part.

(1a) For the purpose of calculating the percentage referred to in subsection (1), where two or more persons or companies make offers to purchase jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities to be acquired, then the voting rights attaching to the securities owned by each of them shall be included in the calculation of the percentage that the voting rights attaching to the voting securities of the company or other issuer owned by each of them is of all voting rights attaching to the voting securities of the company or other issuer.

35. Section 92 of the said Act is repealed.

s. 92,
repealed

36. Section 93 of the said Act is amended by adding at the end thereof "or the issuer bid".

s. 93,
amended

37. Subsections 96 (5) and (6) of the said Act are repealed and the following substituted therefor:

s. 96 (5),
re-enacted;
s. 96 (6),
repealed

(5) Where, at the time of sending a directors' circular, the board of directors advises offerees that it is considering recommending acceptance or rejection of a take-over bid, it shall communicate the recommendation or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer.

Advising
of decision
of directors

38. The said Act is further amended by adding thereto the following section:

s. 96a,
enacted

96a. Where, while a take-over bid is still outstanding, a significant change has occurred in the information contained in a directors' circular that has been sent to offerees under subsection 96 (1) or a director's or officer's circular that has been sent to offerees under subsection 96 (3), other than a change that is not

Amendment
of circulars

within the control of the board of directors of the offeree company or the individual director or officer, as the case may be, the board of directors of the offeree company or the individual director or officer, as the case may be, shall forthwith communicate to each offeree an amendment to the circular disclosing the nature and substance of the change.

ss. 97, 98,
re-enacted

39. Sections 97 and 98 of the said Act are repealed and the following substituted therefor:

Approval of
circulars,
etc.

97.—(1) Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular and of any notice of change or variation shall be approved and the delivery thereof authorized by the directors of the issuer.

Idem

(2) Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular and any notice of change or variation shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer.

Idem

(3) The contents of a directors' circular and any amendments to a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company.

Idem

(4) A directors' circular and any amendments to a directors' circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the offeree company.

Idem

(5) A recommendation by the board of directors of an offeree company of acceptance or rejection of a take-over bid or a decision by the board of directors of an offeree company not to make such a recommendation shall be approved and the delivery thereof authorized by the directors of the offeree company.

Idem

(6) A recommendation by the board of directors of an offeree company of acceptance or rejection of a take-over bid or a decision by the board of directors of an offeree company not to make such a recommendation shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the offeree company.

Approval of
issuer bid
circular, etc.

98.—(1) The contents of an issuer bid circular and any notice of change or variation shall be approved and the delivery thereof authorized by the directors of the issuer.

Idem

(2) An issuer bid circular and any notice of change or variation shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer.

40. Clause 101 (2) (b) of the said Act is repealed and the following substituted therefor: s. 101 (2) (b),
re-enacted

(b) the acquisition or disposition of a put, call or other option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other option relates.

41. Sections 102 and 103 of the said Act are repealed and the following substituted therefor: ss. 102, 103,
re-enacted;
s. 103a,
enacted

102.—(1) A person or company who becomes an insider of a reporting issuer, other than a mutual fund, shall, within ten days of becoming an insider, file a report as of the day on which he became an insider disclosing any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations. Report of
insider

(2) A person or company who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes by a cumulative total of 1 per cent or more in number from that number shown or required to be shown in the report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the change, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer consequent on the change and the change therein that occurred giving such details of each transaction as may be required by the regulations. Idem

(3) A person or company who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes by less than 1 per cent in number from the number shown or required to be shown in the report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which the change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of the month and the change or changes therein that occurred during the said month giving such details of each transaction as may be required by the regulations. Idem

(4) A person or company who becomes an insider of a reporting issuer by reason of subsection 1 (8) or (9) shall file the reports required by subsections (1) and (2) of this section for the previous six months or such shorter period that he was a director or senior Idem

officer of the reporting issuer within ten days of the issuer becoming an insider of the reporting issuer or the reporting issuer becoming an insider of another reporting issuer, as the case may be.

Report of
offeror

103.—(1) Where a person or company becomes the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 10 per cent or more of the voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities, through purchases effected through a take-over bid or issuer bid exempted from the requirements of Part XIX by subsection 88 (2) or (3), such person or company shall file a report as of the day on which he acquired the ownership within three days of acquiring such 10 per cent ownership.

Idem

(2) A person or company who is the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 10 per cent or more of the voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent.

Idem

(3) Where the facts required to be reported by this section are identical to those required under section 102, a separate report under section 102 is not required.

Report of
others

103a.—(1) Where a person or company, other than an offeror as defined in subsection 88 (1), purchases for his or its own account, directly or indirectly, voting securities, as defined in subsection 88 (1) of a reporting issuer carrying 2.5 per cent or more of the voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities, while a take-over bid that is subject to the requirements of Part XIX is outstanding, such person or company shall file by 10 o'clock in the forenoon of the next business day a report, as of the day on which he acquired the ownership, and where two or more persons or companies make purchases jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities so acquired, then the voting rights attaching to the securities purchased by each of them shall be included in the calculation of the percentage that the voting rights attaching to the voting securities of the reporting issuer purchased by each of them is of all

voting rights that would be attached to all voting securities that would be outstanding on exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities.

(2) Where the facts required to be reported by subsection (1) are identical to those required under section 102 or subsection 103 (2), a separate report under section 102 or subsection 103 (2) is not required. Idem

- 42.** Section 116 of the said Act is repealed and the following substituted therefor: s. 116,
re-enacted

116. The Commission shall summarize in or as a part of a periodical published at least monthly and available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part. Publication
of summaries
of reports

- 43.** Subsection 124 (1) of the said Act is repealed and the following substituted therefor: s. 124 (1),
re-enacted

(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that any or all of the exemptions contained in sections 33, 34, 71, 72 and 88 and in the regulations providing for exemptions from sections 24, 52 and 61 of the Act do not apply to the person or company named in the order. Commission's
discretion
to remove
exemptions

- 44.** The said Act is further amended by adding thereto the following section: s. 126a,
enacted

126a.—(1) Where an offering memorandum sent or delivered to a purchaser as required by clause 71 (1) (d) or (y) or permitted by clause 71 (1) (c) or (p), together with any amendment to the offering memorandum, contains a misrepresentation, a purchaser who purchases a security referred to therein shall be deemed to have relied on such misrepresentation if it was a misrepresentation at the time of purchase and has a right of action for damages against the seller or he may elect to exercise a right of rescission against the seller, in which case he shall have no right of action for damages against the seller. Liability for
misrepresentation
in
information
circular

(2) No person or company is liable under subsection (1) if he proves that the purchaser purchased the securities with knowledge of the misrepresentation. Defence

(3) In an action for damages under subsection (1), the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon. Limitation
in action for
damages

Limitation
re amount
recoverable

(4) In no case shall the amount recoverable under this section exceed the price at which the securities were offered.

No
derogation
of rights

(5) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

s. 127 (1-3),
re-enacted

45. Subsections 127 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

Liability for
misrepresentation in
circular, etc.

(1) Where a take-over bid circular together with any notice of change or variation communicated to the offerees of an offeree company, as required by Part XIX, contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

- (a) every person who at the time the circular or notice was signed was a director of the offeror;
- (b) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and
- (c) each person who signed a certificate in the circular or notice other than the persons included in clause (a).

Idem

(2) Where a directors' circular, a director's or officer's circular, an amendment to a directors' circular or an amendment to a director's or officer's circular communicated to the offerees of an offeree company, as required by Part XIX, contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and, in respect of such misrepresentation in a directors' circular or amendment to a directors' circular, has a right of action for damages against every person who at the time the directors' circular or amendment was signed was a director of the offeree and, in respect of such misrepresentation in a director's or officer's circular or amendment to a director's or officer's circular, has a right of action for damages against every director or officer who signed the director's or officer's circular or amendment.

Idem

(3) The provisions of subsection (1) apply with necessary modifications where an issuer bid circular or any notice of change or variation contains a misrepresentation.

s. 131 (7),
amended

46. Subsection 131 (7) of the said Act is amended by striking out "or" at the end of clause (c), by inserting "or" at the end of clause (d) and by adding thereto the following clause:

- (e) the person or company has acquired knowledge of the material fact or material change from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

47. The said Act is further amended by adding thereto the following section: s. 131a,
enacted

131a.—(1) Every person or company who, before the intention has been generally disclosed and other than in the necessary course of business, communicates his or its intention to make a take-over bid or issuer bid, other than a take-over bid effected in reliance on the exemption in clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on the exemption in clause 88 (3) (d) or (e), to another person or company who thereafter purchases securities of the offeree company is liable to compensate the vendor of the securities for damages as a result of the trade unless, Liability
for tipping

- (a) the person or company who communicates his or its intention had reasonable grounds to believe the intention had been generally disclosed;
- (b) the intention was known or ought reasonably to have been known to the vendor; or
- (c) the person or company who communicates his or its intention proves that he or it did not make use of the knowledge of the intention in communicating the intention.

(2) Every person or company in a special relationship with a Idem person or company who has the intention of making a take-over bid or issuer bid who, before the intention has been generally disclosed and other than in the necessary course of business, communicates such intention to make a take-over bid or issuer bid, other than a take-over bid effected in reliance on the exemption in clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on the exemption in clause 88 (3) (d) or (e), to another person or company who thereafter purchases securities of the offeree company is liable to compensate the vendor of the securities for damages as a result of the trade unless,

- (a) the person or company who communicated the intention has reasonable grounds to believe that the intention had been generally disclosed;
- (b) the intention was known or ought reasonably to have been known to the vendor; or

- (c) the person or company who communicated the intention proves that he or it did not make use of the knowledge of intention in communicating the intention.

Liability,
joint and
several

(3) Where more than one person or company in a special relationship with a person or company is liable under subsection (2) as to the same transaction or series of transactions, their liability is joint and several.

Measure of
damages

(4) In assessing damages under subsection (1) or (2), the court shall consider the average market price of the security in the twenty trading days following general disclosure of the intention less the price that the vendor received for the security, but the court may instead consider such other measures of damages as may be relevant in the circumstances.

Interpre-
tation

(5) For the purpose of this section, a person or company is in a special relationship with another person or company where the first mentioned person or company is,

- (a) a person or company that is an insider or an affiliate of the second mentioned person or company;
- (b) a director, officer or employee of that person or company or of a person or company is an insider or an affiliate of the second mentioned person or company;
- (c) a person or company that has engaged, is engaging in or proposes to engage in any business or professional activities with, or on behalf of, the second mentioned person or company and thereby has acquired knowledge of the intention to make a take-over bid or issuer bid;
- (d) a person or company that is an associate of the second mentioned person or company or of any person or company referred to in clause (a), (b) or (c); or
- (e) a person or company that has acquired knowledge of the intention to make a take-over bid or issuer bid from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

s. 135,
amended

48. Section 135 of the said Act is amended by adding thereto the following subsection:

Special
limitation
re: s. 126a

(2) Notwithstanding subsection (1), no action shall be commenced to enforce the right created under section 126a more than

120 days after the date on which payment was made for the securities or after the date on which the initial payment for the securities was made where payments subsequent to the initial payment are made pursuant to a contractual commitment assumed prior to, or concurrently with, the initial payment.

- 49.** Section 138 of the said Act is amended by adding thereto the following subsection: s. 138,
amended

(2a) For the purposes of subsection (2), where, pursuant to a procedure agreed to by the Commission, a chartered accountant, a solicitor or any other person whose profession gives authority to a statement made by him is appointed under section 5 to assist the Commission in determining whether there has been a contravention of the Act or the regulations, any act or omission done or omitted in good faith by the person so appointed, in the discharge or intended discharge of his appointment, or by any professional organization or association that has nominated him for such appointment, shall be considered to be done or omitted in compliance with this Act. Immunity for
experts

- 50.** The said Act is further amended by adding thereto the following section: s. 138a,
enacted

138a.—(1) Subject to subsection (2), this Act applies to, Application
to Her
Majesty

(a) Her Majesty in right of Canada;

(b) Her Majesty in right of Ontario; and

(c) Her Majesty in right of any other province or territory of Canada,

and agents and servants thereof.

(2) Subsections 11 (4) and (6), sections 16, 17 and 59, subsection 72 (3) and sections 118, 122, 126, 126a, 127, 131, 131a, 132 and 135 do not apply to, Exceptions

(a) Her Majesty in right of Canada;

(b) Her Majesty in right of Ontario;

(c) Her Majesty in right of any other province or territory of Canada; or

(d) an agent or servant of Her Majesty, where the matter arises from the performance of a duty or the exercise of a power as an agent or servant of Her Majesty or from any neglect or default in the performance or exercise of such duty or power.

s. 139,
amended

- 51.** Section 139 of the said Act is amended by adding thereto the following paragraph:

8b. prescribing the form and content of the financial statements to be provided to the customer of a registered dealer under section 41.

s. 140,
re-enacted

- 52.** Section 140 of the said Act is repealed and the following substituted therefor:

Commission's
discretion
to revoke
or vary its
decision

140. The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order, on such terms and conditions as it may impose, revoking or varying any decisions made by it under this Act or the regulations or under a predecessor of this Act or the regulations made thereunder.

Commence-
ment

- 53.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 54.** The short title of this Act is the *Securities Amendment Act, 1982*.

An Act to amend the Securities Act

1st Reading

July 7th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Motor Vehicle Accident Claims Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

The principal purpose of the Bill is to provide a mechanism whereby persons who have claims or judgments against persons who are insured under motor vehicle liability policies issued by a "designated insurer" may apply for payments out of the Motor Vehicle Accident Claims Fund. A "designated insurer" is an insurer and its estate which, in the opinion of the Lieutenant Governor in Council, is not paying or is unable to pay claims against the insurer or claims for which final judgment have been given and which has, by regulation, been named as a designated insurer.

The Bill also amends section 4 of the Act to clarify that the \$100 deductible provision applies only to claims related to property loss and damage.

BILL 177

1982

An Act to amend the Motor Vehicle Accident Claims Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 1 of the *Motor Vehicle Accident Claims Act*, being ^{s. 1, amended} chapter 298 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clause:

(a) “designated insurer” means an insurer named as a designated insurer under subsection (2) and its estate.

- (2) The said section 1 is further amended by adding thereto the ^{s. 1, amended} following subsection:

(2) Where the Lieutenant Governor in Council is of the opinion that an insurer is not paying or is unable to pay, within a reasonable period of time, claims made against the insurer or claims for which final judgments have been given, the Lieutenant Governor in Council may, by regulation, name the insurer as a designated insurer for the purposes of this Act. Designated insurer

- 2.—(1) Subsection 4 (1) of the said Act, as amended by the Statutes of ^{s. 4 (1), amended} Ontario, 1981, chapter 66, Schedule, is further amended by striking out “provided that only that amount by which the judgment exceeds \$100 is payable out of the Fund” in the tenth and eleventh lines.

- (2) Section 4 of the said Act is amended by adding thereto the ^{s. 4, amended} following subsection:

(1a) In the case of loss or damage to property, only the amount Deductible by which the loss or damage exceeds \$100 shall be paid out of the Fund under this section.

3. The said Act is amended by adding thereto the following section: s. 4a, enacted

Application
in respect
of designated
insurer

4a.—(1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by a motor vehicle insured under a motor vehicle liability policy issued by a designated insurer, any person who would have a cause of action against the owner or driver of such motor vehicle in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 5 (1), may make application, in a form prescribed by the Minister, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage.

Deductible

(2) In the case of loss or damage to property, only the amount by which the loss or damage exceeds \$100 shall be paid out of the Fund under this section.

Payment
out of Fund
authorized

(3) The Minister may, in respect of an application made under subsection (1), make payment out of the Fund of an amount that he considers proper in all the circumstances if,

(a) the receiver or liquidator of the designated insurer irrevocably agrees to the validity and amount of the claim; and

(b) the applicant executes a release and direction for payment in a form prescribed by the Minister to permit the Minister to claim from the designated insurer the amount paid by him to the applicant.

s. 7 (1),
amended

4.—(1) Subsection 7 (1) of the said Act is amended by adding at the end thereof “and the assignment shall be absolute in its form and effect notwithstanding that the amount paid out of the Fund is less than the amount of the judgment”.

s. 7,
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

Non-
application of
subss. (2, 3)

(4) Subsections (2) and (3) do not apply where the judgment debtor was insured under a motor vehicle liability policy issued by a designated insurer at the time of the accident that gave rise to the judgment.

s. 8,
amended

5. Section 8 of the said Act is amended by adding thereto the following subsection:

Non-
application of
subs. (1)

(2) Subsection (1) does not apply to a judgment debtor who was insured under a motor vehicle liability policy issued by a designated insurer at the time of the accident that gave rise to the judgment.

s. 20,
re-enacted

6. Section 20 of the said Act is repealed and the following substituted therefor:

20.—(1) No payment shall be made out of the Fund in respect of a claim or judgment for damages or in respect of a judgment against the Superintendent of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance, and no amount sought to be paid out of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance.

Payments in relation to amounts payable by insurer, etc., prohibited
R.S.O. 1980, c. 218

(2) Notwithstanding subsection (1), payments may be made out of the Fund in respect of a claim or judgment for damages where the claim or judgment is against a person who at the time of the accident that gave rise to the claim or judgment was insured under a motor vehicle liability policy issued by a designated insurer, but any amount paid in respect of the claim or judgment by the designated insurer shall be deducted from the amount payable out of the Fund.

Claims and judgments against persons insured by designated insurers

(3) Notwithstanding subsections (1) and (2), no amount shall be paid out of the Fund to reimburse or otherwise indemnify an insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*.

No payments by insurers

7. The said Act is further amended by adding thereto the following section:

s. 21a, enacted

21a.—(1) This section applies only to payments out of the Fund made by reason of an insurer being named a designated insurer.

Application

(2) Where a payment is made out of the Fund by reason of an insurer being named as a designated insurer, the limits payable out of the Fund shall be those prescribed by this section and not those prescribed by section 21.

Limits payable in respect of designated insurer

(3) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, the Minister shall not pay out of the Fund more than the total amount of \$200,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$10,000.

Idem

Idem

(4) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of March, 1981, the Minister shall not pay out of the Fund more than the total amount of \$100,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000.

Idem

(5) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000.

Additional
payment

(6) Where a payment has been made out of the Fund by reason of an insurer being named as a designated insurer and the amount of the judgment, excluding interest thereon, exceeds the limits of the Fund as determined under subsections (3) to (5), upon receiving the final payment by the designated insurer, the Minister shall pay to the original judgment creditor an additional amount determined in accordance with the following formula:

$$A = (J - F) \times \frac{R}{J}$$

where,

A = The amount to be paid to the original judgment creditor under this subsection.

F = The amount paid out of the Fund.

J = The lesser of,

(a) the amount of the judgment, excluding interest thereon and costs therein; or

(b) the liability limit of the motor vehicle liability policy issued by the designated insurer.

R = The total amount recovered from the designated insurer with respect to the judgment by the Minister.

(7) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister. Partial
discharge
of judgment
debt

(8) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. Interest

8. This Act comes into force on the day it receives Royal Assent. Commence-
ment

9. The short title of this Act is the *Motor Vehicle Accident Claims Amendment Act, 1982*. Short title

An Act to amend the
Motor Vehicle Accident Claims Act

1st Reading

July 7th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

Bill 177

*(Chapter 12
Statutes of Ontario, 1983)*

An Act to amend the Motor Vehicle Accident Claims Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	July 7th, 1982
<i>2nd Reading</i>	February 14th, 1983
<i>3rd Reading</i>	February 14th, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 177

1982

An Act to amend the Motor Vehicle Accident Claims Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Motor Vehicle Accident Claims Act*, being chapter 298 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clause: s. 1,
amended

(a) “designated insurer” means an insurer named as a designated insurer under subsection (2) and its estate.

(2) The said section 1 is further amended by adding thereto the following subsection: s. 1,
amended

(2) Where the Lieutenant Governor in Council is of the opinion that an insurer is not paying or is unable to pay, within a reasonable period of time, claims made against the insurer or claims for which final judgments have been given, the Lieutenant Governor in Council may, by regulation, name the insurer as a designated insurer for the purposes of this Act. Designated
insurer

2.—(1) Subsection 4 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 66, Schedule, is further amended by striking out “provided that only that amount by which the judgment exceeds \$100 is payable out of the Fund” in the tenth and eleventh lines. s. 4 (1),
amended

(2) Section 4 of the said Act is amended by adding thereto the following subsection: s. 4,
amended

(1a) In the case of loss or damage to property, only the amount by which the loss or damage exceeds \$100 shall be paid out of the Fund under this section. Deductible

s. 4a,
enacted

3. The said Act is amended by adding thereto the following section:

Application
in respect of
designated
insurer

4a.—(1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by a motor vehicle insured under a motor vehicle liability policy issued by a designated insurer, any person who would have a cause of action against the owner or driver of such motor vehicle in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 5 (1), may make application, in a form prescribed by the Minister, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage.

Deductible

(2) In the case of loss or damage to property, only the amount by which the loss or damage exceeds \$100 shall be paid out of the Fund under this section.

Payment out
of Fund
authorized

(3) The Minister may, in respect of an application made under subsection (1), make payment out of the Fund of an amount that he considers proper in all the circumstances if,

- (a) the receiver or liquidator of the designated insurer irrevocably agrees to the validity and amount of the claim; and
- (b) the applicant executes a release and direction for payment in a form prescribed by the Minister to permit the Minister to claim from the designated insurer the amount paid by him to the applicant.

s. 7 (1),
amended

4.—(1) Subsection 7 (1) of the said Act is amended by adding at the end thereof “and the assignment shall be absolute in its form and effect notwithstanding that the amount paid out of the Fund is less than the amount of the judgment”.

s. 7,
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

Non-appli-
cation of
subss. (2, 3)

(4) Subsections (2) and (3) do not apply where the judgment debtor was insured under a motor vehicle liability policy issued by a designated insurer at the time of the accident that gave rise to the judgment.

s. 8,
amended

5. Section 8 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to a judgment debtor who was insured under a motor vehicle liability policy issued by a designated insurer at the time of the accident that gave rise to the judgment.

Non-appli-
cation of
subs. (1)

6. Section 20 of the said Act is repealed and the following substituted therefor:

s. 20,
re-enacted

20.—(1) No payment shall be made out of the Fund in respect of a claim or judgment for damages or in respect of a judgment against the Superintendent of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance, and no amount sought to be paid out of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance.

Payments in
relation to
amounts
payable by
insurer, etc.,
prohibited
R.S.O. 1980,
c. 218

(2) Notwithstanding subsection (1), payments may be made out of the Fund in respect of a claim or judgment for damages where the claim or judgment is against a person who at the time of the accident that gave rise to the claim or judgment was insured under a motor vehicle liability policy issued by a designated insurer, but any amount paid in respect of the claim or judgment by the designated insurer shall be deducted from the amount payable out of the Fund.

Claims and
judgments
against
persons
insured by
designated
insurers

(3) Notwithstanding subsections (1) and (2), no amount shall be paid out of the Fund to reimburse or otherwise indemnify an insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*.

No payments
by insurers

7. The said Act is further amended by adding thereto the following section:

s. 21a,
enacted

21a.—(1) This section applies only to payments out of the Fund made by reason of an insurer being named a designated insurer.

Application

(2) Where a payment is made out of the Fund by reason of an insurer being named as a designated insurer, the limits payable out of the Fund shall be those prescribed by this section and not those prescribed by section 21.

Limits
payable in
respect of
designated
insurer

(3) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, the Minister shall not pay out of the Fund more than the total amount of \$200,000, exclu-

Idem

sive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$10,000.

Idem

(4) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of March, 1981, the Minister shall not pay out of the Fund more than the total amount of \$100,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000.

Idem

(5) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000.

Additional
payment

(6) Where a payment has been made out of the Fund by reason of an insurer being named as a designated insurer and the amount of the judgment, excluding interest thereon, exceeds the limits of the Fund as determined under subsections (3) to (5), upon receiving the final payment by the designated insurer, the Minister shall pay to the original judgment creditor an additional amount determined in accordance with the following formula:

$$A = (J - F) \times \frac{R}{J}$$

where,

A = The amount to be paid to the original judgment creditor under this subsection.

F = The amount paid out of the Fund.

J = The lesser of,

(a) the amount of the judgment, excluding interest thereon and costs therein; or

(b) the liability limit of the motor vehicle liability policy issued by the designated insurer.

R = The total amount recovered from the designated insurer with respect to the judgment by the Minister.

(7) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister.

Partial
discharge of
judgment
debt

(8) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs.

Interest

8. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

9. The short title of this Act is the *Motor Vehicle Accident Claims Amendment Act, 1983*.

Short title

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Pension Benefits Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

SECTION 1. "assets" and "current service cost" are defined.

SECTION 2. Subsection 21 (2) of the Act at present states that "the employer is liable to pay all amounts that would otherwise have been required to be paid to meet the tests for solvency prescribed by the regulations" upon the termination or winding up of a pension plan.

An Act to amend the Pension Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clauses: s. 1 (1),
amended

(a) "assets", when used in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

(ab) "current service cost" means the amount of money that the employer of employees, who are members of a pension plan, is required by the plan, this Act and the regulations to pay into the plan in a fiscal year of the plan to cover the cost of benefits accrued during the fiscal year.

2. Subsection 21 (2) of the said Act is repealed and the following substituted therefor: s. 21 (2),
re-enacted

(2) Upon the termination or winding up of a registered pension plan, the employer of employees covered by the pension plan shall pay to the administrator, insurer or trustee of the pension plan, Termination
or
winding up

(a) an amount equal to,

(i) the current service cost, and

(ii) the special payments prescribed by the regulations,

that have accrued to and including the date of the termination or winding up but, under the terms of the pension plan or the regulations, are not due on that date; and

- (b) all other payments that, by the terms of the pension plan or the regulations, are due from the employer to the pension plan but have not been paid at the date of the termination or winding up.

Accrual

(2a) For the purposes of clause (2) (a), the current service cost and special payments shall be deemed to accrue on a daily basis.

s. 23,
re-enacted

3. Section 23 of the said Act is repealed and the following substituted therefor:

Trust money
for employee

23.—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension plan as the employee's contribution to the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension plan.

Money
deemed
to be
received

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee.

Employee's
lien

(3) The administrator or trustee of the pension plan has a lien and charge upon the assets of the employer in an amount equal to the amount that is deemed to be held in trust under subsection (1).

Trust money
for plan
members

(4) An employer who is required by a pension plan to contribute to the pension plan shall be deemed to hold in trust for the members of the pension plan an amount of money equal to the total of,

- (a) all moneys that the employer is required to pay into the pension plan to meet,

(i) the current service cost, and

(ii) the special payments prescribed by the regulations,

that are due under the pension plan or the regulations and have not been paid into the pension plan; and

SECTION 3. Section 23 of the Act specifies the moneys that an employer is deemed to hold in trust for employees in respect of a pension plan. Subsections 23 (1) and (2) relate to employee contributions and subsection 23 (4) relates to employer contributions. Subsections (3) and (5), as re-enacted, provide for a lien in respect of the amounts deemed to be held in trust. New subsection (6) is at present part of subsection (1).

SECTION 4.—Subsection 1. Clauses 26 (1) (*d*) and (*e*) are restated to add a reference to the regulations.

Subsection 2. New subsections 26 (4) and (4*a*) provide for notice to an employee when the employee has the right to make an election under subsection 26 (1). New subsections 26 (4*b*) and (4*c*) deal with the case where an employee does not make an election; this is currently dealt with in subsection 26 (4).

Subsection 3. Subsection 26 (6) is restated for clarification. New subsection 26 (7) adds a qualification where the employee has not made required contributions to the pension plan.

- (b) where the pension plan is terminated or wound up, any other money that the employer is liable to pay under clause 21 (2) (a).

(5) The administrator or trustee of the pension plan has a lien Members' lien and charge upon the assets of the employer in an amount equal to the amount that is deemed to be held in trust under subsection (4).

(6) Subsections (1) and (4) apply whether or not the moneys Application of subss. (1, 4) mentioned in those subsections are kept separate and apart from other money.

4.—(1) Clauses 26 (1) (d) and (e) of the said Act are repealed and the s. 26 (1) (d, e), re-enacted following substituted therefor:

(d) subject to the regulations, to transfer his pension benefit credit to a pension plan of his new employer if the transfer is accepted by the pension plan of his new employer; or

(e) subject to the regulations, to transfer his pension benefit credit to a registered retirement savings plan as defined in the *Income Tax Act* (Canada). R.S.C. 1952, c. 148

(2) Subsection 26 (4) of the said Act is repealed and the following s. 26 (4), re-enacted substituted therefor:

(4) The administrator of the pension plan that is wound up, in whole or in part, shall give notice to each employee to whom subsection (1) applies that the employee has the right to make an election under subsection (1). Notice of right to elect

(4a) Where there is no administrator of the pension plan, the employer of an employee to whom subsection (1) applies shall give to the employee the notice mentioned in subsection (4). Where no administrator

(4b) An employee to whom subsection (1) applies who does not make an election within three months after having been given the notice mentioned in subsection (4) shall be deemed to have elected, Employee deemed to elect

(a) under clause (1) (a) to receive an immediate pension benefit; or

(b) if the employee is not eligible under the pension plan to receive an immediate pension benefit, under clause (1) (b) to receive a pension benefit commencing at whichever age mentioned in the clause comes first.

Deemed
election
final

(4c) An employee who, under subsection (4b), is deemed to have made an election does not have and shall not be deemed to have the right to make any other election under subsection (1).

s. 26 (6),
re-enacted

(3) Subsection 26 (6) of the said Act is repealed and the following substituted therefor:

Notice
period

(6) For the purposes of determining eligibility for and the amount of a pension benefit referred to in subsection (1), the period of time that an employee has been in the service of his employer or has been a member of the pension plan, as the case may be, includes the period of the notice required under Part XII of the *Employment Standards Act* to terminate the employment of the employee.

R.S.O. 1980,
c. 137

Application of
subs. (6)

(7) Subsection (6) does not apply for the purpose of calculating the amount of a pension benefit of an employee who is required by the pension plan to make contributions to the pension plan and has not done so for the period of the notice required to terminate the employment of the employee under Part XII of the *Employment Standards Act*.

s. 27 (2),
re-enacted

5.—(1) Subsection 27 (2) of the said Act is repealed and the following substituted therefor:

Application of
subs. (1)

(2) Notwithstanding subsection (1), where a person is receiving payment under a pension plan to satisfy the payment of pension benefits to which the person is entitled, the payment is subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario.

Notice of
enforcement

(3) Subsection (2) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order.

Application of
s. 27 (2)

(2) Subsection 27 (2) of the said Act, as re-enacted by subsection (1) of this section, applies to orders for support or maintenance enforceable in Ontario whether made before or after this section comes into force.

s. 30 (2),
amended

6. Subsection 30 (2) of the said Act is amended by inserting after "in" in the fourth line "this Act and".

s. 31 (1) (d),
re-enacted

7. Clause 31 (1) (d) of the said Act is repealed and the following substituted therefor:

(d) the value of the contributions an employee was required to make and has made to the defined benefit pension plan in respect of service in Ontario, to the

SECTION 5.—Subsection 1. Subsection 27 (1) of the Act states that moneys payable under a pension plan are not attachable. Subsection 27 (2) of the Act provides an exception in the case of an order for support under the *Family Law Reform Act*. The re-enacted subsection 27 (2) widens the exception to the case of an order for support or maintenance enforceable in Ontario. New subsection 27 (3) requires that notice be given of the enforcement of the order.

Subsection 2. The subsection clarifies the application of the re-enacted subsection 27 (2).

SECTION 6. Subsection 30 (2) sets out the purpose of the Pension Benefits Guarantee Fund and mentions limits and qualifications in the regulations. The amendment adds a reference to the Act.

SECTION 7. Subsection 31 (1) states the pension benefits that are guaranteed by the Fund on the winding up of a defined benefit pension plan. Clause 31 (1) (d) is re-enacted to mention the value of the pension benefit accrued to the employee from voluntary contributions.

SECTION 8. Section 32 of the Act deals with the liability of the employer when a defined benefit pension plan is wound up. The method of calculating the liability is restated for clarification.

Section 33 of the Act gives the Commission a lien for money paid out of the Fund. The re-enacted section omits reference to the making of an agreement and provides for registration of notice of the lien.

SECTION 9. Subsection 38 (1) authorizes the making of regulations.

extent that the value of the contributions exceeds the value of the pension benefit credit of the employee, including the value of the pension benefit of the employee guaranteed under clause (a) or (c), plus the value of any additional voluntary contributions made by the employee to the defined benefit pension plan while the employee was employed in Ontario.

8. Sections 32 and 33 of the said Act are repealed and the following substituted therefor: ss. 32, 33, re-enacted

32.—(1) The employer of employees who are members of a defined benefit pension plan that the employer is bound by or to which the employer is a party and that is partly or wholly wound up shall pay to the administrator, insurer or trustee of the plan an amount of money equal to the amount by which the value of the pension benefits guaranteed by section 31 plus the value of the pension benefits vested under the defined benefit pension plan exceeds the value of the assets of the plan allocated in accordance with the regulations for payment of pension benefits accrued with respect to service in Ontario. Payment by employer to defined benefit pension plan

(2) The amount that the employer is required to pay under subsection (1) is in addition to the amounts that the employer is liable to pay under subsection 21 (2). Payment additional to other amounts

(3) The employer shall pay the amount required under subsection (1) to the administrator, insurer or trustee of the defined benefit pension plan in the manner prescribed by the regulations. Manner of payment

33.—(1) The Commission has a lien and charge upon the assets of the employer of employees who are members of a defined benefit pension plan in respect of which the Commission pays money out of the Fund. Lien for payment out of Fund

(2) The lien and charge under subsection (1) is in an amount equal to the amount of the payment out of the Fund plus interest calculated at the rate and in the manner prescribed by the regulations. Amount of lien

(3) The lien and charge under subsection (1) does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office and the Commission may so register notice of the lien and charge. Notice of lien

- 9.—(1) Subsection 38 (1) of the said Act is amended by adding thereto the following clause: s. 38 (1), amended

(aa) prescribing any matter referred to in this Act as prescribed by the regulations.

s. 38 (1) (b)
(xiv),
amended

- (2) Subclause 38 (1) (b) (xiv) of the said Act is amended by adding at the end thereof "and prescribing conditions to which any such variance shall be subject".

s. 38 (1),
amended

- (3) The said subsection 38 (1) is further amended by adding thereto the following clause:

(ga) where the Minister is satisfied that it is in the best interest of the members of the pension plan and in the public interest, designating employees of pension plans, or any class thereof, that are excepted from the application of any provision of this Act or the regulations.

s. 38a,
enacted

- 10.** The said Act is amended by adding thereto the following section:

Service

38a.—(1) Any notice or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is to be given, served or delivered at his last known address.

When service
deemed made

(2) A notice or other document sent by registered mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

Commence-
ment

- 11.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 12.** The short title of this Act is the *Pension Benefits Amendment Act, 1982*.

SECTION 10. Section 38a is added to provide for the giving of notice personally or by registered mail.

An Act to amend the Pension Benefits Act

1st Reading

July 7th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

Bill 178

*(Chapter 2
Statutes of Ontario, 1983)*

An Act to amend the Pension Benefits Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	July 7th, 1982
<i>2nd Reading</i>	January 25th, 1983
<i>3rd Reading</i>	January 25th, 1983
<i>Royal Assent</i>	January 27th, 1983

Bill 178

1982

An Act to amend the Pension Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clauses:

s. 1 (1),
amended

- (a) "assets", when used in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

- (ab) "current service cost" means the amount of money that the employer of employees, who are members of a pension plan, is required by the plan, this Act and the regulations to pay into the plan in a fiscal year of the plan to cover the cost of benefits accrued during the fiscal year.

2. Subsection 21 (2) of the said Act is repealed and the following substituted therefor:

s. 21 (2),
re-enacted

(2) Upon the termination or winding up of a registered pension plan, the employer of employees covered by the pension plan shall pay to the administrator, insurer or trustee of the pension plan,

Termination
or
winding up

- (a) an amount equal to,
 - (i) the current service cost, and
 - (ii) the special payments prescribed by the regulations,

that have accrued to and including the date of the termination or winding up but, under the terms of the pension plan or the regulations, are not due on that date; and

- (b) all other payments that, by the terms of the pension plan or the regulations, are due from the employer to the pension plan but have not been paid at the date of the termination or winding up.

Accrual

(2a) For the purposes of clause (2) (a), the current service cost and special payments shall be deemed to accrue on a daily basis.

s. 23,
re-enacted

3. Section 23 of the said Act is repealed and the following substituted therefor:

Trust money
for employee

23.—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension plan as the employee's contribution to the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension plan.

Money
deemed
to be
received

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee.

Employee's
lien

(3) The administrator or trustee of the pension plan has a lien and charge upon the assets of the employer in an amount equal to the amount that is deemed to be held in trust under subsection (1).

Trust money
for plan
members

(4) An employer who is required by a pension plan to contribute to the pension plan shall be deemed to hold in trust for the members of the pension plan an amount of money equal to the total of,

- (a) all moneys that the employer is required to pay into the pension plan to meet,
 - (i) the current service cost, and
 - (ii) the special payments prescribed by the regulations,

that are due under the pension plan or the regulations and have not been paid into the pension plan; and

- (b) where the pension plan is terminated or wound up, any other money that the employer is liable to pay under clause 21 (2) (a).

(5) The administrator or trustee of the pension plan has a lien and charge upon the assets of the employer in an amount equal to the amount that is deemed to be held in trust under subsection (4).

Members' lien

(6) Subsections (1) and (4) apply whether or not the moneys mentioned in those subsections are kept separate and apart from other money.

Application of subss. (1, 4)

4.—(1) Clauses 26 (1) (d) and (e) of the said Act are repealed and the following substituted therefor:

s. 26 (1) (d, e), re-enacted

- (d) subject to the regulations, to transfer his pension benefit credit to a pension plan of his new employer if the transfer is accepted by the pension plan of his new employer; or

- (e) subject to the regulations, to transfer his pension benefit credit to a registered retirement savings plan as defined in the *Income Tax Act* (Canada).

R.S.C. 1952, c. 148

(2) Subsection 26 (4) of the said Act is repealed and the following substituted therefor:

s. 26 (4), re-enacted

(4) The administrator of the pension plan that is wound up, in whole or in part, shall give notice to each employee to whom subsection (1) applies that the employee has the right to make an election under subsection (1).

Notice of right to elect

(4a) Where there is no administrator of the pension plan, the employer of an employee to whom subsection (1) applies shall give to the employee the notice mentioned in subsection (4).

Where no administrator

(4b) An employee to whom subsection (1) applies who does not make an election within three months after having been given the notice mentioned in subsection (4) shall be deemed to have elected,

Employee deemed to elect

- (a) under clause (1) (a) to receive an immediate pension benefit; or
- (b) if the employee is not eligible under the pension plan to receive an immediate pension benefit, under clause (1) (b) to receive a pension benefit commencing

ing at whichever age mentioned in the clause comes first.

Deemed
election
final

(4c) An employee who, under subsection (4b), is deemed to have made an election does not have and shall not be deemed to have the right to make any other election under subsection (1).

s. 26 (6),
re-enacted

(3) Subsection 26 (6) of the said Act is repealed and the following substituted therefor:

Notice
period

(6) For the purposes of determining eligibility for and the amount of a pension benefit referred to in subsection (1), the period of time that an employee has been in the service of his employer or has been a member of the pension plan, as the case may be, includes the period of the notice required under Part XII of the *Employment Standards Act* to terminate the employment of the employee.

R.S.O. 1980,
c. 137

Application
of
subs. (6)

(7) Subsection (6) does not apply for the purpose of calculating the amount of a pension benefit of an employee who is required by the pension plan to make contributions to the pension plan and has not done so for the period of the notice required to terminate the employment of the employee under Part XII of the *Employment Standards Act*.

s. 27 (2),
re-enacted

5.—(1) Subsection 27 (2) of the said Act is repealed and the following substituted therefor:

Application
of
subs. (1)

(2) Notwithstanding subsection (1), where a person is receiving payment under a pension plan to satisfy the payment of pension benefits to which the person is entitled, the payment is subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario.

Notice of
enforcement

(3) Subsection (2) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order.

Application
of
s. 27 (2)

(2) Subsection 27 (2) of the said Act, as re-enacted by subsection (1) of this section, applies to orders for support or maintenance enforceable in Ontario whether made before or after this section comes into force.

s. 30 (2),
amended

6. Subsection 30 (2) of the said Act is amended by inserting after "in" in the fourth line "this Act and".

s. 31 (1) (d),
re-enacted

7. Clause 31 (1) (d) of the said Act is repealed and the following substituted therefor:

- (d) the value of the contributions an employee was required to make and has made to the defined benefit pension plan in respect of service in Ontario, to the extent that the value of the contributions exceeds the value of the pension benefit credit of the employee, including the value of the pension benefit of the employee guaranteed under clause (a) or (c), plus the value of any voluntary additional contributions made by the employee to the defined benefit pension plan while the employee was employed in Ontario.

8. Sections 32 and 33 of the said Act are repealed and the following substituted therefor: ss. 32, 33,
re-enacted

32.—(1) The employer of employees who are members of a defined benefit pension plan that the employer is bound by or to which the employer is a party and that is partly or wholly wound up shall pay to the administrator, insurer or trustee of the plan an amount of money equal to the amount by which the value of the pension benefits guaranteed by section 31 plus the value of the pension benefits vested under the defined benefit pension plan exceeds the value of the assets of the plan allocated in accordance with the regulations for payment of pension benefits accrued with respect to service in Ontario. Payment
by employer
to defined
benefit
pension
plan

(2) The amount that the employer is required to pay under subsection (1) is in addition to the amounts that the employer is liable to pay under subsection 21 (2). Payment
additional
to other
amounts

(3) The employer shall pay the amount required under subsection (1) to the administrator, insurer or trustee of the defined benefit pension plan in the manner prescribed by the regulations. Manner of
payment

33.—(1) The Commission has a lien and charge upon the assets of the employer of employees who are members of a defined benefit pension plan in respect of which the Commission pays money out of the Fund. Lien for
payment
out of Fund

(2) The lien and charge under subsection (1) is in an amount equal to the amount of the payment out of the Fund plus interest calculated at the rate and in the manner prescribed by the regulations. Amount
of lien

(3) The lien and charge under subsection (1) does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office and the Commission may so register notice of the lien and charge. Notice of
lien

s. 38 (1),
amended

9.—(1) Subsection 38 (1) of the said Act is amended by adding thereto the following clause:

(aa) prescribing any matter referred to in this Act as prescribed by the regulations.

s. 38 (1) (b)
(xiv),
amended

(2) Subclause 38 (1) (b) (xiv) of the said Act is amended by adding at the end thereof “and prescribing conditions to which any such variance shall be subject”.

s. 38 (1),
amended

(3) The said subsection 38 (1) is further amended by adding thereto the following clause:

(ga) where the Minister is satisfied that it is in the best interest of the members of the pension plan and in the public interest, designating employees or pension plans, or any class thereof, that are excepted from the application of any provision of this Act or the regulations.

s. 38a,
enacted

10. The said Act is amended by adding thereto the following section:

Service

38a.—(1) Any notice or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is to be given, served or delivered at his last known address.

When service
deemed
made

(2) A notice or other document sent by registered mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

Commence-
ment

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Pension Benefits Amendment Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting the Restraint of Compensation in the Public
Sector of Ontario and the Monitoring of Inflationary
Conditions in the Economy of the Province**

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics

EXPLANATORY NOTE

Under the provisions of the Bill, public sector wage restraint will apply to the broadly-defined public sector which includes: members of the Legislature, employees of the Ontario public service, municipal and provincial corporations, commissions, boards and agencies (including universities, colleges, hospitals, health boards, library boards, etc.), directors of public agencies and members of provincially and municipally appointed boards, provincial judges and other provincial and municipal appointees, members of municipal councils, local boards and school boards.

The wage restraint provisions of the Bill will also apply to privately-owned para-public sector companies contracted to or funded by the Province, a municipality or other government agency to provide public services including: nursing homes, ambulance services, private hospitals, home care services, garbage contractors and contract group homes.

Certain charitable organizations and non-government agencies, as set out in the Schedule to the Bill, providing public services contracted to or funded by the Province or other government agency are also subject to the Bill. The Bill also provides that, by Regulation, coverage may be extended to include employees of other public sector organizations or other compensation plans in the public sector.

The Bill also establishes a board to be known as the Inflation Restraint Board, to deal with matters affecting public sector compensation and prices charged or regulated by the government.

Compensation plans expiring during the period October 1, 1982 to and including September 30, 1983 are extended for 12 months with a 5 per cent pay increase limit mandatory for collective agreements and permissive for other compensation plans. Compensation plans scheduled to expire after September 30, 1983 are made subject to the controls on the anniversary of their effective date falling in the period October, 1982 to and including September, 1983, when they are limited to 5 per cent pay increases.

Merit increases or other increments are restricted to the extent that they would put a person's salary over \$35,000 a year, but low-income workers may benefit from a provision which allows full-time employees to receive an increase of up to \$1,000 (if the normal increase provided in the Bill would be smaller). Part-time workers may receive a similar increase on a pro-rated basis.

Transitional provisions in the Bill apply to compensation plans with expiry dates before October 1, 1982 where a new compensation plan has not been implemented. The purpose of the transitional provisions is to bring outstanding agreements into the period where the 5 per cent increase applies in an orderly and equitable fashion.

Compensation plans expiring in the period October 1, 1981 to and including September 30, 1982 are extended for 12 months from their expiry date and limited to 9 per cent increases. These plans are then limited to 5 per cent increases.

Compensation plans expiring before October 1, 1981 are extended from their expiry date until the anniversary of the expiry date in the period October 2, 1982 to and including October 1, 1983. The Board determines the annual wage increase or increases for the first part of this period. The increase in the last 12 months must be no more than 9 per cent. These plans are then limited to 5 per cent increases.

A compensation plan that has been agreed to in writing before September 21, 1982 is allowed to proceed for 12 months provided that the previous agreement expired before October 1, 1982 and the renewal agreement is implemented without change. This would cover settled but as yet unratified collective agreements. Compensation plans with an expiry date on or after October 1, 1982 are subject to the restricted increases in compensation whether or not there was a written agreement before September 21, 1982.

Part III of the Bill deals with "administered prices", which are prices that are charged or regulated by the Government of Ontario. The Bill creates a mechanism whereby the Minister of Consumer and Commercial Relations can refer to the Board any administered price increase that he feels may not conform with the criteria that are established in accordance with the Bill. The Board will investigate and report to the Minister on the price increase, and the Minister reports to the Lieutenant Governor in Council his recommendations with respect to that increase. Whether or not there has been a reference to the Board, the Bill gives the Lieutenant Governor in Council the power to disallow or alter any increase in an administered price.

In Part IV of the Bill, the Board is also given the responsibility of monitoring the pattern of changes in prices and wages in the private sector, of reporting to the Minister its findings in this area and of promoting public understanding of inflation.

BILL 179

1982

**An Act respecting the Restraint of
Compensation in the Public Sector of Ontario
and the Monitoring of Inflationary Conditions
in the Economy of the Province**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Inflation Restraint Board;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "regulations" means the regulations made under this Act;
- (d) "Treasurer" means the Treasurer of Ontario and Minister of Economics.

PART I

INFLATION RESTRAINT BOARD

2.—(1) There is hereby established a board to be known as the Inflation Restraint Board.

Board
established

(2) The Board shall consist of not fewer than three members who shall be appointed by the Lieutenant Governor in Council to hold office for a term to be determined by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council shall designate one of the members as chairman of the Board, and one or more vice-chairmen from among the members of the Board and the chairman shall have responsibility for assigning among the members the matters to be resolved by the Board.

Chairman
and
vice-chairmen

One or more members may determine matter

(4) The chairman may in writing authorize one or more members of the Board to determine any matter to be determined by the Board and for that purpose the member or members may exercise all the jurisdiction and powers of the Board and his or their decision on the matter shall be the decision of the Board and where more than one member is assigned to determine any matter, the decision of the majority of such members is the decision of the Board.

Remuneration and expenses

(5) Such members of the Board as are not officers in the public service of Ontario shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, are entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties under this Act while absent from their ordinary places of residence.

Removal from office

(6) A member of the Board may be removed by the Lieutenant Governor in Council from office before the expiration of his term, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of the term.

By-laws

3.—(1) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Board.

Services of ministries, boards, etc.

(2) In exercising its powers under this Act, the Board shall, where appropriate, make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Staff

(3) The Board may, subject to the approval of Management Board of Cabinet, use the services of staff seconded to the Board from the public service of Ontario or engage under contract such persons as are considered necessary from time to time for the proper conduct of the affairs of the Board.

Hearings

R.S.O. 1980,
c. 484

(4) The Board may, in its discretion where it considers it desirable to do so, hold a hearing and where the Board does so, the *Statutory Powers Procedure Act* applies, except that, whether or not the Board holds a hearing, the Board is not required to give reasons for any final order, decision or determination made by it, but notwithstanding the *Statutory Powers Procedure Act* or any other rule of law, the Board is not required to hold any hearing before making any order, decision or determination that it is authorized to make.

No action for damages

(5) No action for damages lies against any member or any employee of the Board for,

- (a) any act done in good faith in the performance or exercise of a power or duty; or
 - (b) any neglect or default in the performance or exercise in good faith of that power or duty under this Act.
- (6) Subsection (5) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort to which it would otherwise be subject, and the Crown is liable under that Act for any tort in a like manner as if subsection (5) had not been enacted. Crown not relieved of liability
R.S.O. 1980, c. 393

PART II

PUBLIC SECTOR COMPENSATION RESTRAINT

4. In this Part,

Interpretation

- (a) "administrator", in relation to a compensation plan, means,
 - (i) where the compensation plan is administered by an employer, the employer,
 - (ii) where the compensation plan is administered by a person other than an employer, that person, and
 - (iii) where the administrator is not readily determinable under subclause (i) or (ii), the person, association or entity determined by the Board to be the administrator;
- (b) "anniversary date" means the anniversary of the stated effective date of a compensation plan or, where the plan has no stated effective date, the date as determined by the Board;
- (c) "collective agreement" means a collective agreement as defined in the *Labour Relations Act*, an agreement referred to in subsection 5 (1) of the *Fire Departments Act* or subsection 29 (2) of the *Police Act*, a decision resulting from arbitration that, by operation of law or agreement, governs working conditions or terms of compensation, and any agreement between a unit of employees established for collective bargaining and an employer or person in the position of an employer for defining, determining or providing for working conditions or terms of compensation; R.S.O. 1980, cc. 228, 164, 381

- (d) "compensation" means all forms of payment, benefits and perquisites paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle that person to be paid a fixed or ascertainable amount;
- (e) "compensation plan" means the provisions, however established, for the determination and administration of compensation, and includes such provisions contained in collective agreements or established bilaterally between an administrator and an employee, unilaterally by an administrator or by or pursuant to any Act of the Legislature;
- (f) "compensation rates" means single rates of remuneration or ranges of rates of remuneration, including cost-of-living adjustments, or, where no such rates or ranges exist, any fixed or ascertainable amounts of remuneration;
- (g) "employee" means any person who performs duties and functions that entitle that person to a fixed or ascertainable amount or rate of remuneration;
- (h) "full-time employee" means an employee whose regular work week exceeds thirty hours;
- (i) "municipality" means a county, city, town, village and township and includes a metropolitan, regional or district municipality.

Deemed
expiry
date
R.S.O. 1980,
c. 308

5.—(1) Notwithstanding subsection 8 (3), a compensation plan in respect of those persons mentioned in clause 6 (5) (b) who are elected to office in accordance with the *Municipal Elections Act* and of those persons mentioned in clauses 6 (5) (a) and (c) shall be deemed to expire on the 30th day of November, 1982.

Idem

(2) Notwithstanding subsection 8 (3), the compensation plan of members of the Assembly shall be deemed to expire on the 31st day of March, 1983.

Application

6.—(1) This Part applies to the compensation plans of employees employed in or by,

- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;

- (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario; R.S.O. 1980,
c. 303
- (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown; R.S.O. 1980,
c. 129
- (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*; R.S.O. 1980,
cc. 410, 389,
79, 391
- (e) every corporation with share capital, 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (g) every local board of health of a municipality or of a health unit under the *Public Health Act*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality; R.S.O. 1980,
c. 409
- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Legislature of Ontario, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the

Schedule hereto or added to the Schedule by the regulations.

Idem (2) This Part applies to the compensation plans of members and directors of corporations and boards described in clauses (1) (a), (b), (c), (d), (e), (f), (g) and (i) or of wholly-owned subsidiaries of such corporations.

Idem (3) This Part applies to the compensation plans of persons appointed by the Lieutenant Governor in Council to a position in the public service of Ontario, to a board, commission or corporation described in subsection (1) or to a wholly-owned subsidiary of such corporation, and to the compensation plans of judges as defined in the *Provincial Courts Act* and of small claims court judges appointed under the *Small Claims Courts Act*.

R.S.O. 1980,
cc. 398, 476

Idem (4) This Part applies to the compensation plans of members of the Assembly.

Idem (5) This Part applies to the compensation plans of members of,

(a) the councils of every municipality;

R.S.O. 1980,
c. 303 (b) every local board as defined in the *Municipal Affairs Act*;

R.S.O. 1980,
c. 129 (c) every board as defined in the *Education Act*.

Binding on
Her Majesty 7. This Act is binding on Her Majesty in right of Ontario.

Continuation
of
existing
compensation
plans
1981, c. 53;
R.S.O. 1980,
c. 137 8.—(1) Notwithstanding any other Act, except the *Human Rights Code, 1981*, and section 33 of the *Employment Standards Act*, every compensation plan that is in effect on the 21st day of September, 1982, shall be continued without change to and including its scheduled expiry date.

Where prior
agreement to
establish plan (2) Where a compensation plan that is included in a collective agreement would have expired before the 1st day of October, 1982, and the parties to the collective agreement have, prior to the 21st day of September, 1982, reached an agreement in writing on all the terms of the compensation plan to be established as of the expiry of the previous compensation plan, and the plan so agreed on is established and goes into effect on or after the 21st day of September, 1982 without change, the compensation plan so agreed on shall, for the purposes of subsection (1) and sections 9 and 11, be deemed to be in effect on the 21st day of September, 1982.

(3) Except as extended or made subject to this Part by sections 9 and 11, and for the purpose only of this Part, every compensation plan to which this Part applies, Deemed expiry

- (a) that, by the law applicable thereto or by the terms of the agreement that gave effect to the plan, is to be effective for a minimum period of time, is deemed to expire at the end of that minimum period of time, notwithstanding that, under such law or agreement, the plan might be continued beyond that time;
- (b) that is a compensation plan to which clause (a) does not apply and in which there is a usual or customary period of time (not exceeding one year in length) for which terms and conditions of compensation are applicable, is deemed to expire at the end of that usual or customary period of time that includes the 21st day of September, 1982; or
- (c) to which neither clause (a) nor (b) applies, is deemed to expire on the day determined by the Board as the expiry date of the plan.

(4) Where a compensation plan to which this Part applies and to which subsection (1) or (2) is also applicable, provides for any increase in the value of compensation in the twelve-month period referred to in clause 11 (b), such increase in value shall not take effect or come into force in that twelve-month period, but nothing in this subsection prevents an application's being brought under section 14 in respect of a change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates to take effect in that twelve-month period. Increases in compensation

9. Every compensation plan that, but for this section, would have expired before the 1st day of October, 1982, shall be extended, Extension of compensation plan already expired

- (a) where the compensation plan would have expired on or after the 1st day of October, 1981, for the twelve-month period immediately following the day the plan would have expired; and
- (b) where the compensation plan would have expired before the 1st day of October, 1981, for the period commencing with the day immediately following the day the plan would have expired and ending with the day immediately preceding the plan's anniversary date next following the 1st day of October, 1982.

Increase in
compensation
rates under
extended plan

10. A compensation plan that is extended under section 9 shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the day that, but for section 9, the plan would have expired shall be increased,

- (a) in the case of a compensation plan referred to in clause 9 (a), for the twelve-month period referred to in that clause, by not more than 9 per cent; and
- (b) in the case of a compensation plan referred to in clause 9 (b),
 - (i) for that part of the period referred to in that clause and prior to the first day of the last twelve months of that period, by such amount as the Board, in its discretion, may authorize, and
 - (ii) for the last twelve months of the period referred to in that clause, by not more than 9 per cent.

Extension
of existing
compensation
plans

11. Every compensation plan that is in effect on the 21st day of September, 1982, to which this Part applies and that expires on or after the 1st day of October, 1982, including every compensation plan extended under section 9, shall,

- (a) where the expiry date is scheduled to occur on or after the 1st day of October, 1982 and prior to the 1st day of October, 1983, be extended for the twelve-month period immediately following the scheduled expiry date; and
- (b) where the expiry date is scheduled to occur on or after the 1st day of October, 1983, be subject to this Part for the twelve-month period commencing with the plan's anniversary date falling within the period beginning with the 2nd day of October, 1982 and ending with the 1st day of October, 1983.

Increase in
compensation
rates under
extended plan

12.—(1) Notwithstanding any other Act, every compensation plan to which this Part applies shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the first to occur of either,

- (a) the day that, but for section 11, the plan would expire; or
- (b) the day immediately preceding the plan's anniversary date referred to in clause 11 (b),

shall be increased for the twelve-month period immediately following the day determined in accordance with clauses (a) and (b),

(c) in the case of a compensation plan included in a collective agreement, by 5 per cent; and

(d) in any other case, by not more than 5 per cent.

(2) Notwithstanding any other Act or section 10 and subsection (1) of this section, where a person receives an increase referred to in the said subsection (1), in clause 10 (a) or in subclause 10 (b) (ii) that will, during the applicable period referred to in those provisions, amount to less than \$1,000 for any full-time employee, the administrator of the compensation plan of which such full-time employee is a member may, in his discretion, pay to such full-time employee additional compensation in that period equal to the difference between \$1,000 and the total amount of the increase in that period of such employee's compensation in accordance with this Part other than this subsection, and,

\$1,000
minimum
increase

(a) where a person who is not a full-time employee is performing substantially the same kind of work as a full-time employee and does so for an employer who has granted to his full-time employees performing that kind of work an increase in accordance with this subsection, the administrator of the compensation plan of which such person is a member may, in his discretion, pay to such person in that period additional compensation necessary to provide that, after taking the increase allowed by this subsection into account, the ratio of the compensation rate of the full-time employee to whom an increase under this subsection is paid to the compensation rate of the person to whom an increase under this subsection is paid is the same as the ratio of their compensation rates immediately before the commencement of the applicable period; and

(b) where a person is neither a full-time employee nor a person to whom clause (a) applies, the administrator of the compensation plan of which the person is a member may, in his discretion, pay to the person in the applicable period additional compensation necessary to provide that the increase in compensation received by the person in that period under this Part, including this subsection, is the same percentage of \$1,000 that the hours worked in that period by the person is of 2,000 hours,

provided that no increase under this subsection shall be paid to the extent that the total amount of such increase during the applicable period, when added to the total amount in that period of the increase referred to in section 10 and in the provisions of this section other than this subsection, exceeds \$1,000.

\$750 minimum
increase

(3) Notwithstanding subsection (2), the increase that any person may receive under that subsection shall not be less than the increase that would be payable to him under that subsection if it were enacted herein,

- (a) with the sum of \$750 substituted in every case where \$1,000 is mentioned; and
- (b) with the word "shall" substituted in every case where the expression "may, in his discretion," is mentioned,

but this subsection does not prevent the granting of an increase or the exercise of discretion under subsection (2) where the increase that could be given under that subsection is greater than the increase required to be given in accordance with this subsection.

Exception

(4) Subsections (2) and (3) do not apply in respect of a person whose annual compensation rate exceeds \$20,000.

Merit
increases
restricted

(5) During the period commencing with the 21st day of September, 1982 and ending with the expiry of the twelve-month period referred to in subsection (1), no increase in compensation, for or in recognition of,

- (a) meritorious or satisfactory work performance;
- (b) the completion of a specified period of work experience;
- (c) the successful completion of a program or course of professional or technical education;
- (d) regularly scheduled increments in remuneration; or
- (e) length of time in employment,

may be paid to or received by a person who is a member of a compensation plan to which this Part applies to the extent that such increase would, at the time the person becomes entitled to it, increase his or her annual compensation above \$35,000, but nothing in this subsection prevents increases in compensation as a result of the proper promotion of a person to a different or more responsible position, the compensation plan for which was established,

- (f) before the 21st day of September, 1982; or
- (g) with the approval of the Board; or
- (h) after the usual and proper evaluation of the compensation applicable to that position.

13. Notwithstanding any other Act except the *Human Rights Code, 1981* and section 33 of the *Employment Standards Act*, but subject to section 14, the terms and conditions of,

Terms and conditions continued in force 1981, c. 53 R.S.O. 1980, c. 137

- (a) every compensation plan that is extended or made subject to this Part under section 9 or 11; and
- (b) every collective agreement that includes such a compensation plan,

shall, subject to this Part, continue in force without change for the period for which the compensation plan is extended or made subject to this Part.

14.—(1) Where the parties to a collective agreement,

Disputed matters

- (a) cannot agree on the amount of the increase in compensation rates to which members of the compensation plan included in the collective agreement are entitled under clause 10 (a) or subclause 10 (b) (ii);
- (b) cannot agree on the value to be placed on a proposed change to any terms and conditions of the compensation plan equivalent to an increase in compensation rates, but are agreed on all other aspects of the proposed change; or
- (c) have agreed on all aspects of a proposed change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates, including the value thereof,

either party may apply to the Board in accordance with such procedure as the Board specifies to have the disputed matters resolved or, in the case of a proposed change referred to in clause (c), to have the proposed change reviewed by the Board, and the Board shall, in accordance with this Act and in its discretion, determine, as the case requires, the amount of the increase in compensation rates to which the members of the compensation plan are entitled or the value to be placed on a proposed change referred to in clause (b) or (c), provided that,

- (d) for the period referred to in clause 10 (a) or subclause 10 (b) (ii), such increase, or the value of such proposed change, does not constitute an increase that is, or that is equivalent to, more than the increase referred to in those provisions; and
- (e) for the period referred to in subsection 12 (1), the value of such proposed change does not constitute an increase that is equivalent to more than the increase permitted under section 12.

Proposed
changes
to be
approved

(2) Where the administrator of a compensation plan that is not included in a collective agreement proposes to change any terms and conditions of the plan, and the change, if made, would be equivalent to an increase in compensation rates under the plan, the administrator shall, before the proposed change may be implemented, apply to the Board in accordance with such procedure as the Board specifies to have the proposed change reviewed, and the Board may, in accordance with this Part and in its discretion, determine the value to be placed on the proposed change and approve, reject or vary the terms thereof as it sees fit, provided that, for the period for which the proposed change (as approved or varied by the Board) is to be effective, the value thereof, together with any other increases in the period in accordance with this Part, does not constitute an increase equivalent to more than an increase authorized by this Part for the period, and the proposed change, as approved or varied by the Board, may be implemented.

Board may
review
decision
under
s. 12 (2)

(3) The failure of the administrator of a compensation plan to exercise, or to exercise fully, the discretion conferred on him by subsection 12 (2) and in accordance with subsection 12 (3) is, on the application to the Board of a party affected thereby, reviewable by the Board, and the Board may, in accordance with those subsections, make any decision that the administrator could or should have made, and its decision shall be implemented by the administrator.

Amendment
of terms and
conditions

15. The parties to a collective agreement that includes a compensation plan that is extended under section 11 may, by agreement, amend any terms and conditions of the collective agreement other than compensation rates or other terms and conditions of the compensation plan.

Where
provision of
compensation
plan of no
effect

16. Notwithstanding any other Act or any agreement, any provision of a compensation plan to which this Part applies that provides for an increase in compensation rates in excess of the limits set out in this Part on or after the 21st day of September, 1982 shall be of no effect.

17.—(1) The Board has such powers and shall perform such duties and functions in relation to this Part as are necessary to enable it to determine whether a compensation plan to which this Part applies complies with this Part. Powers and duties of Board

(2) Notwithstanding any other Act, the Board may in writing require from an administrator of a compensation plan to which this Part applies, or from any other person in possession of information that in the opinion of the Board is or may be relevant to the compensation plan and the administrator or person shall provide, within such reasonable time as is specified by the Board, such information and documentation as the Board reasonably considers necessary to enable it to make a determination as to whether or not the compensation plan complies with this Part. Information to be provided

(3) Any administrator or person who fails without reasonable excuse to comply with subsection (2) is guilty of an offence. Offence

(4) The Board may receive and accept any evidence and information on oath, affidavit or otherwise as in its discretion it considers proper, whether or not it is admissible as evidence in a court. Evidence

(5) The Board may recommend to the Lieutenant Governor in Council that any or all of the members of any compensation plan to which this Part applies be no longer subject to the application of this Part where, in the opinion of the Board, there exist special circumstances justifying that recommendation and the special circumstances on which the Board relies shall be set out in its recommendation. Recommendation by the Board

18. The Board has in the exercise of any of its authority under this Part the powers of a commission under Part II of the *Public Inquiries Act*. Application R.S.O. 1980, c. 411, Pt. II

19. A provision of a compensation plan, to which this Part applies, entered into or established at any time, is of no force or effect to the extent that it provides for an increase in compensation rates that would bring compensation rates to a level that they would, but for this Act, have reached. Provisions of compensation plans that are of no force or effect

20. Where the Board determines that a compensation plan does not comply with this Part the Board shall, Where compensation plan does not comply

- (a) notify in writing the administrator of the compensation plan and any other person the Board considers appropriate that the plan does not comply;

- (b) notify in writing the administrator of the compensation plan and any other person the Board considers appropriate of the maximum allowable increase in compensation that the Board considers would so comply;
- (c) give such directions to the administrator as the Board considers necessary to ensure the distribution to the persons whose compensation plan is found not to comply of the information given to the administrator by the Board under clauses (a) and (b); and;
- (d) provide the parties to the compensation plan with an opportunity to reach or establish a plan that complies with this Part.

Order of
the Board

21.—(1) Notwithstanding section 20, where the Board determines that a compensation plan does not comply with this Part, and that the administrator of the compensation plan is implementing, has implemented or is likely to implement an increase in compensation in a compensation plan that does not comply with this Part, the Board may make an order,

- (a) prohibiting, in the manner it specifies, the administrator from implementing the increases in compensation that do not comply with this Part;
- (b) requiring a recipient of compensation under the compensation plan to pay back to the administrator or to pay to the Treasurer any increase in compensation that does not comply with this Part;
- (c) requiring the administrator to withhold, in the manner and at the time specified by the Board, from future compensation the amount of any increase in compensation that has been received by a member of the compensation plan in excess of the increase permitted under this Part, and the Board may require any amount so withheld to be paid to the Treasurer.

Notice to
administrator

(2) The Board shall, in writing, notify an administrator of a compensation plan affected by an order made under this section.

Notice to
persons
affected

(3) On the order of the Board, an administrator shall, in writing, notify the persons whose compensation plan is affected by an order made under this section.

Inspection
of order

(4) An order of the Board is a public document and shall be made available for inspection at the office of the Board during normal business hours.

22.—(1) Notwithstanding section 21, where the Board has ^{Agreements} determined that a compensation plan does not comply with this Part, the Board may enter into a written agreement with the administrator that the Board will not,

(a) make an order under subsection 21 (1); or

(b) where it has already made an order under subsection 21 (1), file the order with the court under section 24,

so long as the administrator complies with any conditions established by the Board.

(2) Where the Board has determined that the administrator is ^{Where administrator in breach of conditions} in breach of any of the conditions established by the Board in an agreement under subsection (1),

(a) the Board shall notify the administrator in writing;

(b) the agreement is rescinded; and

(c) the Board may exercise any of its powers under this Part.

(3) An agreement under subsection (1) is a public document ^{Inspection of agreement} and shall be made available for inspection at the office of the Board during normal business hours.

23.—(1) The Board may reconsider and revoke, in whole or ^{Revocation, amendment, etc., of order or decision} in part, amend or vary a decision or order it has made.

(2) The Board may impose any conditions it considers necessary ^{Conditions} in respect of any decision or order made by it.

24.—(1) A copy of an order of the Board, certified by a ^{Enforcement of order} member of the Board, may be filed in the office of the Registrar of the Supreme Court by the Board and, if it is for the payment of money, it may be enforced at the instance of the Board in the name of the Board in the same manner as a judgment of that court, and in all other cases by an application by the Board to the court for such order as the court may consider just.

(2) Where the Board makes an order rescinding or varying an ^{Where order varied or rescinded} order previously made by it that has been filed under subsection (1),

(a) if the order rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or

- (b) if the order varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order filed under subsection (1).

Regulations

25.—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating any compensation plan or class thereof to which this Part applies and the date as of which this Part shall be applicable thereto, and where necessary, prescribing the manner in which this Part shall be applied;
- (b) terminating in whole or in part the application of this Part in respect of a compensation plan or compensation plans to which this Part applies;
- (c) where it is considered necessary for the restraint of public sector expenditure, adding to or deleting from the Schedule any person or any class of persons, or any agency, authority, board, commission, corporation or organization of any kind;
- (d) further defining the expression “compensation plan” or prescribing the person or class of persons whose method of compensation shall be deemed to be a compensation plan for the purposes of this Act;
- (e) further defining the expression “compensation” or prescribing amounts or benefits, or classes of amounts or benefits, which shall be deemed to be compensation for the purposes of this Act;
- (f) defining any word or expression not already expressly defined in this Act.

Retroactivity

(2) A regulation made under subsection (1) may, if it so provides, be made retroactive in its operation to a day not earlier than the 21st day of September, 1982.

PART III

ADMINISTERED PRICES

Interpretation

26. In this Part,

- (a) “administered price” means,

- (i) a price, user charge or fee charged by a public agency, and
 - (ii) a price, user charge or fee required, permitted or authorized by a public regulatory agency to be charged by another person;
- (b) "price increase" means an increase or a proposed increase in an administered price;
- (c) "public agency" means an agency, board, commission or corporation, including any wholly-owned subsidiary corporation, established or controlled by the Crown in right of Ontario, which provides any product or service for which a price, user charge or fee is charged;
- (d) "public regulatory agency" means any ministry, agency, board, commission or corporation established or controlled by the Crown in right of Ontario which approves, establishes, regulates or requires particular prices, user charges or fees to be charged for any product or service.

27.—(1) The Minister shall establish economic criteria by which price increases shall be reviewed.

Minister
to establish
economic
criteria

(2) Where the Minister is of the opinion that a price increase may not conform with the criteria, he may refer the price increase to the Board for investigation where the price increase occurs on or after the 21st day of September, 1982 and before the later of,

Reference to
Board for
investigation

- (a) the 1st day of January, 1984; and
- (b) in the case of a public agency or a person regulated by a public regulatory agency that has implemented a price increase on or after the 21st day of September, 1982 and prior to the 1st day of January, 1984, the day one year from the last such increase.

(3) Where a price increase is referred to the Board by the Minister, the Board shall,

Powers and
duties of the
Board

- (a) investigate and report on the price increase and determine whether it conforms with the criteria;
- (b) where requested by the Minister, determine, or request the public agency or public regulatory agency concerned to determine, the maximum price increase which would so conform; and

- (c) report to the Minister the result of its investigation and determination under clauses (a) and (b).

Recommendations to L.G. in C.

28. The Minister shall review a report of the Board made under clause 27 (3) (c) and make recommendations to the Lieutenant Governor in Council with respect to the price increase.

Order of L.G. in C.

29.—(1) Notwithstanding any other Act, the Lieutenant Governor in Council on the recommendation of the Minister may by order,

- (a) disallow a price increase in whole or in part;
- (b) where appropriate, substitute a price increase for the price increase disallowed under clause (a);
- (c) delay the effective date of a price increase;
- (d) impose conditions on a public agency or other person with regard to the implementation of a price increase; or
- (e) exercise any combination of the powers in clauses (a), (b), (c) and (d).

Where order may be made

(2) No order shall be made under subsection (1) except with regard to a price increase occurring within the period referred to in subsection 27 (2).

Implementation of order

(3) Notwithstanding any other Act or regulation made thereunder, an order made under subsection (1) shall be implemented in accordance with its terms by the public agency, public regulatory agency or other person affected thereby.

Information

30.—(1) For the purpose of carrying out its duties under section 27, the Board may by notice require public agencies, public regulatory agencies and persons whose prices are regulated by public regulatory agencies to file with the Board such reasonably necessary information concerning administered prices as is specified in the notice and that is in their possession or to which they may reasonably be expected to have access.

Compliance with notice

(2) Every public agency, public regulatory agency or person to whom a notice referred to in subsection (1) is directed or sent shall comply therewith within such reasonable time as is specified in the notice and thereafter at such regular intervals, if any, as are specified in the notice.

(3) Notwithstanding subsection (2), the Board may, on request in writing from any agency or person to whom a notice referred to in subsection (1) is directed or sent, extend any time within which or any interval at which the agency or person is required to comply with the notice.

Extension of
time for
compliance

31.—(1) Except as provided in this section, all information with respect to administered prices that is, in its nature, confidential and that is obtained by the Board or by any person engaged in carrying out duties of the Board under this Part, in the course of carrying out those duties, is privileged and no person shall knowingly, except as expressly provided in this or any other Act, communicate or allow to be communicated to any person any such information except for the purposes of the administration of this Part or allow any person to inspect or have access to any such information except for the purposes of the administration or enforcement of this part.

Confidentiality of
information

(2) Any information with respect to an administered price obtained by the Board or by any person engaged in carrying out the duties of the Board in the course of carrying out those duties, may, on request in writing to the chairman of the Board by or on behalf of the agency or person to which the information relates, be communicated to any person or authority named in the request on such terms and conditions and under such circumstances as are approved by the chairman of the Board.

Disclosure of
information,
where
permitted

(3) Notwithstanding any other Act or law, no minister of the Crown and no person employed in the administration of this Act shall be required, in connection with any legal proceedings, to give evidence relating to any information that is privileged under subsection (1) or to produce any statement or other writing containing such information.

Evidence

(4) Subsections (1) and (3) do not apply in respect of matters being considered by the Board under this Part or to any proceedings in a court of law relating to the administration of this Part.

Exception

(5) Any person who knowingly communicates or allows to be communicated any information in contravention of subsection (1) is guilty of an offence.

Offence

32. The Lieutenant Governor in Council may make regulations further defining the terms “public agency” and “public regulatory agency”.

Regulations

PART IV

PRIVATE SECTOR MONITORING

Powers and
duties**33.** The Board shall,

- (a) monitor the pattern of changes in prices and wages in the private sector of the economy of Ontario generally and report its findings to the Minister from time to time as required by the Minister; and
- (b) through such methods as it considers appropriate, promote public understanding of the inflationary process, and the relationships between productivity, costs and prices.

PART V

GENERAL

Moneys

34. The moneys required for the purposes of this Act shall, until the 31st day of March, 1983, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Annual
reports

35. The Board shall make an annual report of its activities under Part II to the Treasurer and an annual report of its activities under Parts III and IV to the Minister, and the Treasurer and the Minister shall table the respective reports before the Assembly if it is in session or, if not, at the next ensuing session.

Commence-
ment

36. This Act shall be deemed to have come into force on the 21st day of September, 1982.

Short title

37. The short title of this Act is the *Inflation Restraint Act*, 1982.

SCHEDULE

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario
2. CJRT-FM Inc.
3. Royal Botanical Gardens

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:
 - (a) observation and detention homes operating under sections 27, 28, 29 and 30 of the *Provincial Courts Act* (R.S.O. 1980, c. 398);
 - (b) homes for the aged operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (c) counselling services, special assistance and staff training services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
 - (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (e) home support services for the elderly funded by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (f) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
 - (g) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;
 - (h) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (i) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (j) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (k) services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
 - (l) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (m) approved children's institutions under the *Children's Institutions Act* (R.S.O. 1980, c. 67);

- (n) approved children's mental health centres under the *Children's Mental Health Services Act* (R.S.O. 1980, c. 69);
 - (o) services to children purchased by the Ministry of Community and Social Services under the *Children's Mental Health Services Act* (R.S.O. 1980, c. 69, s. 11);
 - (p) services funded under the *Developmental Services Act* (R.S.O. 1980, c. 118);
 - (q) homes for retarded persons approved under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201);
 - (r) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
 - (s) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
 - (t) training schools and group homes providing services under the *Training Schools Act* (R.S.O. 1980, c. 508);
 - (u) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (v) probation and after-care services, residential services and supervisory services to children on probation under agreement with the Ministry of Community and Social Services under the *Children's Probation Act* (R.S.O. 1980, c. 70) or under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
2. Children's aid societies operating under the *Child Welfare Act* (R.S.O. 1980, c. 66) and agencies from whom children's aid societies purchase child care services.
 3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).
 4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).
 5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,
 - (a) assistance to witnesses and victims of crime, or other disabled groups;
 - (b) educational, employment search, medical or promotional services;
 - (c) supervision of inmates, parolees, probationers or persons accused of crime;
 - (d) community residential services.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:

- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
- (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);
- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Public Health Act* (R.S.O. 1980, c. 409);
- (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Minister of Health;
- (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
- (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or which, by arrangement with any such home care facility,
 - (i) supplies homemaking, nursing, physiotherapy, occupational therapy or speech therapy services which are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
- (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
- (h) a detoxification centre the operation of which is funded in whole or in part by the Minister of Health;
- (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Minister of Health;
- (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Minister of Health.

2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).

3. (a) Booth Avenue Hospital Laundry, Inc.;

(b) Centennial Hospital Linen Services;

(c) Cornwall Regional Hospital Linen Services;

(d) Kawartha Hospital Linen Services;

- (e) Kingston Regional Hospital Laundry Inc.;
 - (f) London Hospital Linen Services, Inc.;
 - (g) Mohawk Hospital Linen Services;
 - (h) Nipissing Area Joint Hospitals Laundry, Inc.;
 - (i) Ottawa Regional Linen Services, Inc.;
 - (j) Sudbury Hospital Services;
 - (k) Windsor Hospital Linen Services, Inc.
4. Ottawa-Carleton Regional Hospital Food Services Inc.
 5. Toronto Hospitals Steam Corporation
 6. The Alcoholism and Drug Addiction Research Foundation
 7. The Canadian Red Cross Society
 8. The Hospital Council of Metropolitan Toronto
 9. The Hospital Medical Records Institute
 10. The Ontario Cancer Institute
 11. The Ontario Cancer Treatment and Research Foundation
 12. The Ontario Mental Health Foundation
 13. The Ontario Council of Health
 14. The Toronto Institute of Medical Technology

MINISTRY OF INDUSTRY AND TRADE

1. Metropolitan Toronto Convention Centre

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:
 - (a) The collection, removal and disposal of garbage and other refuse for a municipality;
 - (b) The operation and maintenance of buses, for the conveyance of passengers under an agreement with a municipality.
2. Exhibition Stadium Corporation

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

1. St. Clair Parkway Commission

MINISTRY OF TREASURY AND ECONOMICS

1. Ontario Municipal Employees Retirement Board

An Act respecting the Restraint of
Compensation in the Public Sector of
Ontario and the Monitoring of Inflationary
Conditions in the Economy of the Province

1st Reading

September 21st, 1982

2nd Reading

3rd Reading

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting the Restraint of Compensation in the Public
Sector of Ontario and the Monitoring of Inflationary
Conditions in the Economy of the Province**

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

Under the provisions of the Bill, public sector wage restraint will apply to the broadly-defined public sector which includes: members of the Legislature, employees of the Ontario public service, municipal and provincial corporations, commissions, boards and agencies (including universities, colleges, hospitals, health boards, library boards, etc.), directors of public agencies and members of provincially and municipally appointed boards, provincial judges and other provincial and municipal appointees, members of municipal councils, local boards and school boards.

The wage restraint provisions of the Bill will also apply to privately-owned para-public sector companies contracted to or funded by the Province, a municipality or other government agency to provide public services including: nursing homes, ambulance services, private hospitals, home care services, garbage contractors and contract group homes.

Certain charitable organizations and non-government agencies, as set out in the Schedule to the Bill, providing public services contracted to or funded by the Province or other government agency are also subject to the Bill. The Bill also provides that, by Regulation, coverage may be extended to include employees of other public sector organizations or other compensation plans in the public sector.

The Bill also establishes a board to be known as the Inflation Restraint Board, to deal with matters affecting public sector compensation and prices charged or regulated by the government.

Compensation plans expiring during the period October 1, 1982 to and including September 30, 1983 are extended for 12 months with a 5 per cent pay increase limit mandatory for collective agreements and permissive for other compensation plans. Compensation plans scheduled to expire after September 30, 1983 are made subject to the controls on the anniversary of their effective date falling in the period October, 1982 to and including September, 1983, when they are limited to 5 per cent pay increases.

Merit increases or other increments are restricted to the extent that they would put a person's salary over \$35,000 a year, but low-income workers may benefit from a provision which allows full-time employees to receive an increase of up to \$1,000 (if the normal increase provided in the Bill would be smaller). Part-time workers may receive a similar increase on a pro-rated basis.

Transitional provisions in the Bill apply to compensation plans with expiry dates before October 1, 1982 where a new compensation plan has not been implemented. The purpose of the transitional provisions is to bring outstanding agreements into the period where the 5 per cent increase applies in an orderly and equitable fashion.

Compensation plans expiring in the period October 1, 1981 to and including September 30, 1982 are extended for 12 months from their expiry date and limited to 9 per cent increases. These plans are then limited to 5 per cent increases.

Compensation plans expiring before October 1, 1981 are extended from their expiry date until the anniversary of the expiry date in the period October 2, 1982 to and including October 1, 1983. The Board determines the annual wage increase or increases for the first part of this period. The increase in the last 12 months must be no more than 9 per cent. These plans are then limited to 5 per cent increases.

A compensation plan that has been agreed to in writing before September 21, 1982 is allowed to proceed for 12 months provided that the previous agreement expired before October 1, 1982 and the renewal agreement is implemented without change. This would cover settled but as yet unratified collective agreements. Compensation plans with an expiry date on or after October 1, 1982 are subject to the restricted increases in compensation whether or not there was a written agreement before September 21, 1982.

Part III of the Bill deals with "administered prices", which are prices that are charged or regulated by the Government of Ontario. The Bill creates a mechanism whereby the Minister of Consumer and Commercial Relations can refer to the Board any administered price increase that he feels may not conform with the criteria that are established in accordance with the Bill. The Board will investigate and report to the Minister on the price increase, and the Minister reports to the Lieutenant Governor in Council his recommendations with respect to that increase. Whether or not there has been a reference to the Board, the Bill gives the Lieutenant Governor in Council the power to disallow or alter any increase in an administered price.

In Part IV of the Bill, the Board is also given the responsibility of monitoring the pattern of changes in prices and wages in the private sector, of reporting to the Minister its findings in this area and of promoting public understanding of inflation.

BILL 179

1982

**An Act respecting the Restraint of
Compensation in the Public Sector of Ontario
and the Monitoring of Inflationary Conditions
in the Economy of the Province**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Inflation Restraint Board;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "regulations" means the regulations made under this Act;
- (d) "Treasurer" means the Treasurer of Ontario and Minister of Economics.

PART I

INFLATION RESTRAINT BOARD

2.—(1) There is hereby established a board to be known as the Inflation Restraint Board.

Board
established

(2) The Board shall consist of not fewer than three members who shall be appointed by the Lieutenant Governor in Council to hold office for a term to be determined by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council shall designate one of the members as chairman of the Board, and one or more vice-chairmen from among the members of the Board and the chairman shall have responsibility for assigning among the members the matters to be resolved by the Board.

Chairman
and
vice-chairmen

One or more members may determine matter

(4) The chairman may in writing authorize one or more members of the Board to determine any matter to be determined by the Board and for that purpose the member or members may exercise all the jurisdiction and powers of the Board and his or their decision on the matter shall be the decision of the Board and where more than one member is assigned to determine any matter, the decision of the majority of such members is the decision of the Board.

Remuneration and expenses

(5) Such members of the Board as are not officers in the public service of Ontario shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, are entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties under this Act while absent from their ordinary places of residence.

Removal from office

(6) A member of the Board may be removed by the Lieutenant Governor in Council from office before the expiration of his term, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of the term.

Board may make rules

3.—(1) The Board may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters coming before it, and may require that any person seeking a determination by the Board of any matter shall give written notice, in such form and manner as the Board specifies, to such others as the Board specifies.

Services of ministries, boards, etc.

(2) In exercising its powers under this Act, the Board shall, where appropriate, make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Staff

(3) The Board may, subject to the approval of Management Board of Cabinet, use the services of staff seconded to the Board from the public service of Ontario or engage under contract such persons as are considered necessary from time to time for the proper conduct of the affairs of the Board.

Hearings

(4) The Board may, in its discretion where it considers it desirable to do so, hold an oral hearing and where the Board does so, the *Statutory Powers Procedure Act* applies, except that, whether or not the Board holds an oral hearing, the Board is not required to give reasons for any final order, decision or determination made by it, but notwithstanding the *Statutory Powers Procedure Act* or any other rule of law, the Board is not required to hold any oral hearing before making any order, decision or determination that it is authorized to make.

R.S.O. 1980,
c. 484

(5) No action for damages lies against any member or any employee of the Board for, No action for damages

- (a) any act done in good faith in the performance or exercise of a power or duty; or
- (b) any neglect or default in the performance or exercise in good faith of that power or duty under this Act.

(6) Subsection (5) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort to which it would otherwise be subject, and the Crown is liable under that Act for any tort in a like manner as if subsection (5) had not been enacted. Crown not relieved of liability
R.S.O. 1980, c. 393

PART II

PUBLIC SECTOR COMPENSATION RESTRAINT

4. In this Part,

Interpretation

- (a) "administrator", in relation to a compensation plan, means,
 - (i) where the compensation plan is administered by an employer, the employer,
 - (ii) where the compensation plan is administered by a person other than an employer, that person, and
 - (iii) where the administrator is not readily determinable under subclause (i) or (ii), the person, association or entity determined by the Board to be the administrator;
- (b) "anniversary date" means the anniversary of the stated effective date of a compensation plan or, where the plan has no stated effective date, the date as determined by the Board;
- (c) "collective agreement" means a collective agreement as defined in the *Labour Relations Act*, an agreement referred to in subsection 5 (1) of the *Fire Departments Act* or subsection 29 (2) of the *Police Act*, a decision resulting from arbitration that, by operation of law or agreement, governs working conditions or terms of compensation, and any agreement between a unit of employees established for collective bargaining and an employer or person in the position of an employer for defining, determining or providing for working conditions or terms of compensation;

R.S.O. 1980,
cc. 228, 164,
381

- (d) "compensation" means all forms of payment, benefits and perquisites paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle that person to be paid a fixed or ascertainable amount;
- (e) "compensation plan" means the provisions, however established, for the determination and administration of compensation, and includes such provisions contained in collective agreements or established bilaterally between an administrator and an employee, unilaterally by an administrator or by or pursuant to any Act of the Legislature;
- (f) "compensation rates" means single rates of remuneration or ranges of rates of remuneration, including cost-of-living adjustments, or, where no such rates or ranges exist, any fixed or ascertainable amounts of remuneration;
- (g) "employee" means any person who performs duties and functions that entitle that person to a fixed or ascertainable amount or rate of remuneration;
- (h) "full-time employee" means an employee whose regular work week exceeds thirty hours;
- (i) "municipality" means a county, city, town, village and township and includes a metropolitan, regional or district municipality.

Deemed
expiry
date
R.S.O. 1980,
c. 308

5.—(1) Notwithstanding subsection 8 (3), a compensation plan in respect of those persons mentioned in clause 6 (5) (b) who are elected to office in accordance with the *Municipal Elections Act* and of those persons mentioned in clauses 6 (5) (a) and (c) shall be deemed to expire on the 30th day of November, 1982.

Idem

(2) Notwithstanding subsection 8 (3), the compensation plan of members of the Assembly shall be deemed to expire on the 31st day of March, 1983.

Application

6.—(1) This Part applies to the compensation plans of employees employed in or by,

- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;

- (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario; R.S.O. 1980,
c. 303
- (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown; R.S.O. 1980,
c. 129
- (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*; R.S.O. 1980,
cc. 410, 389,
79, 391
- (e) every corporation with share capital, 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (g) every local board of health of a municipality or of a health unit under the *Public Health Act*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality; R.S.O. 1980,
c. 409
- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Legislature of Ontario, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the

Schedule hereto or added to the Schedule by the regulations.

Idem (2) This Part applies to the compensation plans of members and directors of corporations and boards described in clauses (1) (a), (b), (c), (d), (e), (f), (g) and (i) or of wholly-owned subsidiaries of such corporations.

Idem (3) This Part applies to the compensation plans of persons appointed by the Lieutenant Governor in Council to a position in the public service of Ontario, to a board, commission or corporation described in subsection (1) or to a wholly-owned subsidiary of such corporation, and to the compensation plans of judges as defined in the *Provincial Courts Act* and of small claims court judges appointed under the *Small Claims Courts Act*.

R.S.O. 1980,
cc. 398, 476

Idem (4) This Part applies to the compensation plans of members of the Assembly.

Idem (5) This Part applies to the compensation plans of members of,

(a) the councils of every municipality;

R.S.O. 1980,
c. 303

(b) every local board as defined in the *Municipal Affairs Act*;

R.S.O. 1980,
c. 129

(c) every board as defined in the *Education Act*.

Binding on
Her Majesty

7. This Act is binding on Her Majesty in right of Ontario.

Continuation
of
existing
compensation
plans
1981, c. 53;
R.S.O. 1980,
c. 137

8.—(1) Notwithstanding any other Act, except the *Human Rights Code, 1981*, and section 33 of the *Employment Standards Act*, every compensation plan that is in effect on the 21st day of September, 1982, shall be continued without change to and including its scheduled expiry date.

Where prior
agreement to
establish plan

(2) Where a compensation plan that is included in a collective agreement would have expired before the 1st day of October, 1982, and the parties to the collective agreement have, prior to the 22nd day of September, 1982, reached an agreement in writing on all the terms of the compensation plan to be established as of the expiry of the previous compensation plan, and the plan so agreed on is established and goes into effect on or after the 21st day of September, 1982 without change, the compensation plan so agreed on shall, for the purposes of subsection (1) and sections 9 and 11, be deemed to be in effect on the 21st day of September, 1982.

(3) Except as extended or made subject to this Part by sections 9 and 11, and for the purpose only of this Part, every compensation plan to which this Part applies, Deemed expiry

(a) that, by the law applicable thereto or by the terms of the agreement that gave effect to the plan, is to be effective for a minimum period of time, is deemed to expire at the end of that minimum period of time, notwithstanding that, under such law or agreement, the plan might be continued beyond that time;

(b) that is a compensation plan to which clause (a) does not apply and in which there is a usual or customary period of time (not exceeding one year in length) for which terms and conditions of compensation are applicable, is deemed to expire at the end of that usual or customary period of time that includes the 21st day of September, 1982; or

(c) to which neither clause (a) nor (b) applies, is deemed to expire on the day determined by the Board as the expiry date of the plan.

(4) Where a compensation plan to which this Part applies and to which subsection (1) or (2) is also applicable, provides for any increase in the value of compensation in the twelve-month period referred to in clause 11 (b), such increase in value shall not take effect or come into force in that twelve-month period, but nothing in this subsection prevents an application's being brought under section 14 in respect of a change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates to take effect in that twelve-month period. Increases in compensation

9. Every compensation plan that, but for this section, would have expired before the 1st day of October, 1982, shall be extended, Extension of compensation plan already expired

(a) where the compensation plan would have expired on or after the 1st day of October, 1981, for the twelve-month period immediately following the day the plan would have expired; and

(b) where the compensation plan would have expired before the 1st day of October, 1981, for the period commencing with the day immediately following the day the plan would have expired and ending with the day immediately preceding the plan's anniversary date next following the 1st day of October, 1982.

Increase in
compensation
rates under
extended plan

10. A compensation plan that is extended under section 9 shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the day that, but for section 9, the plan would have expired shall be increased,

- (a) in the case of a compensation plan referred to in clause 9 (a), for the twelve-month period referred to in that clause, by not more than 9 per cent; and
- (b) in the case of a compensation plan referred to in clause 9 (b),
 - (i) for that part of the period referred to in that clause and prior to the first day of the last twelve months of that period, by such amount as the Board, in its discretion, may authorize, and
 - (ii) for the last twelve months of the period referred to in that clause, by not more than 9 per cent.

Extension
of existing
compensation
plans

11. Every compensation plan that is in effect on the 21st day of September, 1982, to which this Part applies and that expires on or after the 1st day of October, 1982, including every compensation plan extended under section 9, shall,

- (a) where the expiry date is scheduled to occur on or after the 1st day of October, 1982 and prior to the 1st day of October, 1983, be extended for the twelve-month period immediately following the scheduled expiry date; and
- (b) where the expiry date is scheduled to occur on or after the 1st day of October, 1983, be subject to this Part for the twelve-month period commencing with the plan's anniversary date falling within the period beginning with the 2nd day of October, 1982 and ending with the 1st day of October, 1983.

Increase in
compensation
rates under
extended plan

12.—(1) Notwithstanding any other Act, every compensation plan to which this Part applies shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the first to occur of either,

- (a) the day that, but for section 11, the plan would expire; or
- (b) the day immediately preceding the plan's anniversary date referred to in clause 11 (b),

shall be increased for the twelve-month period immediately following the day determined in accordance with clauses (a) and (b),

(c) in the case of a compensation plan included in a collective agreement, by 5 per cent; and

(d) in any other case, by not more than 5 per cent.

(2) Notwithstanding any other Act or section 10 and subsection (1) of this section, where a person receives an increase referred to in the said subsection (1), in clause 10 (a) or in subclause 10 (b) (ii) that will, during the applicable period referred to in those provisions, amount to less than \$1,000 for any full-time employee, the administrator of the compensation plan of which such full-time employee is a member may, in his discretion, pay to such full-time employee additional compensation in that period equal to the difference between \$1,000 and the total amount of the increase in that period of such employee's compensation in accordance with this Part other than this subsection, and,

\$1,000
minimum
increase

(a) where a person who is not a full-time employee is performing substantially the same kind of work as a full-time employee and does so for an employer who has granted to his full-time employees performing that kind of work an increase in accordance with this subsection, the administrator of the compensation plan of which such person is a member may, in his discretion, pay to such person in that period additional compensation necessary to provide that, after taking the increase allowed by this subsection into account, the ratio of the compensation rate of the full-time employee to whom an increase under this subsection is paid to the compensation rate of the person to whom an increase under this subsection is paid is the same as the ratio of their compensation rates immediately before the commencement of the applicable period; and

(b) where a person is neither a full-time employee nor a person to whom clause (a) applies, the administrator of the compensation plan of which the person is a member may, in his discretion, pay to the person in the applicable period additional compensation necessary to provide that the increase in compensation received by the person in that period under this Part, including this subsection, is the same percentage of \$1,000 that the hours worked in that period by the person is of 2,000 hours,

provided that no increase under this subsection shall be paid to the extent that the total amount of such increase during the applicable period, when added to the total amount in that period of the increase referred to in section 10 and in the provisions of this section other than this subsection, exceeds \$1,000.

\$750 minimum
increase

(3) Notwithstanding subsection (2), the increase that any person may receive under that subsection shall not be less than the increase that would be payable to him under that subsection if it were enacted herein,

(a) with the sum of \$750 substituted in every case where \$1,000 is mentioned; and

(b) with the word "shall" substituted in every case where the expression "may, in his discretion," is mentioned,

but this subsection does not prevent the granting of an increase or the exercise of discretion under subsection (2) where the increase that could be given under that subsection is greater than the increase required to be given in accordance with this subsection.

Exception

(4) Subsections (2) and (3) do not apply in respect of a person whose annual compensation rate exceeds \$20,000.

Merit
increases
restricted

(5) During the period commencing with the 21st day of September, 1982 and ending with the expiry of the twelve-month period referred to in subsection (1), no increase in compensation, for or in recognition of,

(a) meritorious or satisfactory work performance;

(b) the completion of a specified period of work experience;

(c) the successful completion of a program or course of professional or technical education;

(d) regularly scheduled increments in remuneration; or

(e) length of time in employment,

may be paid to or received by a person who is a member of a compensation plan to which this Part applies to the extent that such increase would, at the time the person becomes entitled to it, increase his or her annual compensation above \$35,000, but nothing in this subsection prevents increases in compensation as a result of the proper promotion of a person to a different or more responsible position, the compensation plan for which was established,

- (f) before the 21st day of September, 1982; or
- (g) with the approval of the Board; or
- (h) after the usual and proper evaluation of the compensation applicable to that position.

13. Notwithstanding any other Act except the *Human Rights Code, 1981* and section 33 of the *Employment Standards Act*, but subject to section 14, the terms and conditions of,

Terms and conditions continued in force 1981, c. 53 R.S.O. 1980, c. 137

- (a) every compensation plan that is extended or made subject to this Part under section 9 or 11; and
- (b) every collective agreement that includes such a compensation plan,

shall, subject to this Part, continue in force without change for the period for which the compensation plan is extended or made subject to this Part.

14.—(1) Where the parties to a collective agreement,

Disputed matters

- (a) cannot agree on the amount of the increase in compensation rates to which members of the compensation plan included in the collective agreement are entitled under clause 10 (a) or subclause 10 (b) (ii);
- (b) cannot agree on the value to be placed on a proposed change to any terms and conditions of the compensation plan equivalent to an increase in compensation rates, but are agreed on all other aspects of the proposed change; or
- (c) have agreed on all aspects of a proposed change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates, including the value thereof,

either party may apply to the Board in accordance with such procedure as the Board specifies to have the disputed matters resolved or, in the case of a proposed change referred to in clause (c), to have the proposed change reviewed by the Board, and the Board shall, in accordance with this Act and in its discretion, determine, as the case requires, the amount of the increase in compensation rates to which the members of the compensation plan are entitled or the value to be placed on a proposed change referred to in clause (b) or (c), provided that,

- (d) for the period referred to in clause 10 (a) or subclause 10 (b) (ii), such increase, or the value of such proposed change, does not constitute an increase that is, or that is equivalent to, more than the increase referred to in those provisions; and
- (e) for the period referred to in subsection 12 (1), the value of such proposed change does not constitute an increase that is equivalent to more than the increase permitted under section 12.

Proposed
changes
to be
approved

(2) Where the administrator of a compensation plan that is not included in a collective agreement proposes to change any terms and conditions of the plan, and the change, if made, would be equivalent to an increase in compensation rates under the plan, the administrator shall, before the proposed change may be implemented, apply to the Board in accordance with such procedure as the Board specifies to have the proposed change reviewed, and the Board may, in accordance with this Part and in its discretion, determine the value to be placed on the proposed change and approve, reject or vary the terms thereof as it sees fit, provided that, for the period for which the proposed change (as approved or varied by the Board) is to be effective, the value thereof, together with any other increases in the period in accordance with this Part, does not constitute an increase equivalent to more than an increase authorized by this Part for the period, and the proposed change, as approved or varied by the Board, may be implemented.

Board may
review
decision
under
s. 12 (2)

(3) The failure of the administrator of a compensation plan to exercise, or to exercise fully, the discretion conferred on him by subsection 12 (2) and in accordance with subsection 12 (3) is, on the application to the Board of a party affected thereby, reviewable by the Board, and the Board may, in accordance with those subsections, make any decision that the administrator could or should have made, and its decision shall be implemented by the administrator.

Amendment
of terms and
conditions

15. The parties to a collective agreement that includes a compensation plan that is extended under section 11 may, by agreement, amend any terms and conditions of the collective agreement other than compensation rates or other terms and conditions of the compensation plan.

Where
provision of
compensation
plan of no
effect

16. Notwithstanding any other Act or any agreement, any provision of a compensation plan to which this Part applies that provides for an increase in compensation rates in excess of the limits set out in this Part on or after the 21st day of September, 1982 shall be of no effect.

17.—(1) The Board has such powers and shall perform such Powers and duties of Board duties and functions in relation to this Part as are necessary to enable it to determine whether a compensation plan to which this Part applies complies with this Part.

(2) Notwithstanding any other Act, the Board may in writing Information to be provided require from an administrator of a compensation plan to which this Part applies, or from any other person in possession of information that in the opinion of the Board is or may be relevant to the compensation plan and the administrator or person shall provide, within such reasonable time as is specified by the Board, such information and documentation as the Board reasonably considers necessary to enable it to make a determination as to whether or not the compensation plan complies with this Part.

(3) Any administrator or person who fails without reasonable Offence excuse to comply with subsection (2) is guilty of an offence.

(4) The Board may receive and accept any evidence and Evidence information on oath, affidavit or otherwise as in its discretion it considers proper, whether or not it is admissible as evidence in a court.

(5) The Board may recommend to the Lieutenant Governor in Council that any or all of the members of any compensation plan to which this Part applies be no longer subject to the application of this Part where, in the opinion of the Board, there exist special circumstances justifying that recommendation and the special circumstances on which the Board relies shall be set out in its recommendation. Recommendation by the Board

18. The Board has in the exercise of any of its authority Application R.S.O. 1980, c. 411, Pt. II under this Part the powers of a commission under Part II of the *Public Inquiries Act*.

19. A provision of a compensation plan, to which this Part Provisions of compensation plans that are of no force or effect applies, entered into or established at any time, is of no force or effect to the extent that it provides for an increase in compensation rates that would bring compensation rates to a level that they would, but for this Act, have reached.

20. Where the Board determines that a compensation plan Where compensation plan does not comply does not comply with this Part the Board shall,

- (a) notify in writing the administrator of the compensation plan and any other person the Board considers appropriate that the plan does not comply;

- (b) notify in writing the administrator of the compensation plan and any other person the Board considers appropriate of the maximum allowable increase in compensation that the Board considers would so comply;
- (c) give such directions to the administrator as the Board considers necessary to ensure the distribution to the persons whose compensation plan is found not to comply of the information given to the administrator by the Board under clauses (a) and (b); and;
- (d) provide the parties to the compensation plan with an opportunity to reach or establish a plan that complies with this Part.

Order of
the Board

21.—(1) Notwithstanding section 20, where the Board determines that a compensation plan does not comply with this Part, and that the administrator of the compensation plan is implementing, has implemented or is likely to implement an increase in compensation in a compensation plan that does not comply with this Part, the Board may make an order,

- (a) prohibiting, in the manner it specifies, the administrator from implementing the increases in compensation that do not comply with this Part;
- (b) requiring a recipient of compensation under the compensation plan to pay back to the administrator or to pay to the Treasurer any increase in compensation that does not comply with this Part;
- (c) requiring the administrator to withhold, in the manner and at the time specified by the Board, from future compensation the amount of any increase in compensation that has been received by a member of the compensation plan in excess of the increase permitted under this Part, and the Board may require any amount so withheld to be paid to the Treasurer.

Notice to
administrator

(2) The Board shall, in writing, notify an administrator of a compensation plan affected by an order made under this section.

Notice to
persons
affected

(3) On the order of the Board, an administrator shall, in writing, notify the persons whose compensation plan is affected by an order made under this section.

Inspection
of order

(4) An order of the Board is a public document and shall be made available for inspection at the office of the Board during normal business hours.

22.—(1) Notwithstanding section 21, where the Board has Agreements determined that a compensation plan does not comply with this Part, the Board may enter into a written agreement with the administrator that the Board will not,

- (a) make an order under subsection 21 (1); or
- (b) where it has already made an order under subsection 21 (1), file the order with the court under section 24,

so long as the administrator complies with any conditions established by the Board.

(2) Where the Board has determined that the administrator is Where administrator in breach of conditions in breach of any of the conditions established by the Board in an agreement under subsection (1),

- (a) the Board shall notify the administrator in writing;
- (b) the agreement is rescinded; and
- (c) the Board may exercise any of its powers under this Part.

(3) An agreement under subsection (1) is a public document Inspection of agreement and shall be made available for inspection at the office of the Board during normal business hours.

23.—(1) The Board may reconsider and revoke, in whole or Revocation, amendment, etc., of order or decision in part, amend or vary a decision or order it has made.

(2) The Board may impose any conditions it considers necessary Conditions in respect of any decision or order made by it.

24.—(1) A copy of an order of the Board, certified by a Enforcement of order member of the Board, may be filed in the office of the Registrar of the Supreme Court by the Board and, if it is for the payment of money, it may be enforced at the instance of the Board in the name of the Board in the same manner as a judgment of that court, and in all other cases by an application by the Board to the court for such order as the court may consider just.

(2) Where the Board makes an order rescinding or varying an Where order varied or rescinded order previously made by it that has been filed under subsection (1),

- (a) if the order rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or

- (b) if the order varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order filed under subsection (1).

Regulations

25.—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating any compensation plan or class thereof to which this Part applies and the date as of which this Part shall be applicable thereto, and where necessary, prescribing the manner in which this Part shall be applied;
- (b) terminating in whole or in part the application of this Part in respect of a compensation plan or compensation plans to which this Part applies;
- (c) where it is considered necessary for the restraint of public sector expenditure, adding to or deleting from the Schedule any person or any class of persons, or any agency, authority, board, commission, corporation or organization of any kind;
- (d) further defining the expression “compensation plan” or prescribing the person or class of persons whose method of compensation shall be deemed to be a compensation plan for the purposes of this Act;
- (e) further defining the expression “compensation” or prescribing amounts or benefits, or classes of amounts or benefits, which shall be deemed to be compensation for the purposes of this Act;
- (f) defining any word or expression not already expressly defined in this Act.

Retroactivity

(2) A regulation made under subsection (1) may, if it so provides, be made retroactive in its operation to a day not earlier than the 21st day of September, 1982.

PART III

ADMINISTERED PRICES

Interpretation

26. In this Part,

- (a) “administered price” means,

- (i) a price, user charge or fee charged by a public agency, and
 - (ii) a price, user charge or fee required, permitted or authorized by a public regulatory agency to be charged by another person;
- (b) "price increase" means an increase or a proposed increase in an administered price;
- (c) "public agency" means an agency, board, commission or corporation, including any wholly-owned subsidiary corporation, established or controlled by the Crown in right of Ontario, which provides any product or service for which a price, user charge or fee is charged;
- (d) "public regulatory agency" means any ministry, agency, board, commission or corporation established or controlled by the Crown in right of Ontario which approves, establishes, regulates or requires particular prices, user charges or fees to be charged for any product or service.

27.—(1) The Minister shall establish economic criteria by which price increases shall be reviewed.

Minister
to establish
economic
criteria

(2) Where the Minister is of the opinion that a price increase may not conform with the criteria, he may refer the price increase to the Board for investigation where the price increase occurs on or after the 21st day of September, 1982 and before the later of,

Reference to
Board for
investigation

(a) the 1st day of January, 1984; and

(b) in the case of a public agency or a person regulated by a public regulatory agency that has implemented a price increase on or after the 21st day of September, 1982 and prior to the 1st day of January, 1984, the day one year from the last such increase.

(3) Where a price increase is referred to the Board by the Minister, the Board shall,

Powers and
duties of the
Board

- (a) investigate and report on the price increase and determine whether it conforms with the criteria;
- (b) where requested by the Minister, determine, or request the public agency or public regulatory agency concerned to determine, the maximum price increase which would so conform; and

- (c) report to the Minister the result of its investigation and determination under clauses (a) and (b).

Recommendations to L.G. in C.

28. The Minister shall review a report of the Board made under clause 27 (3) (c) and make recommendations to the Lieutenant Governor in Council with respect to the price increase.

Order of L.G. in C.

29.—(1) Notwithstanding any other Act, the Lieutenant Governor in Council on the recommendation of the Minister may by order,

- (a) disallow a price increase in whole or in part;
- (b) where appropriate, substitute a price increase for the price increase disallowed under clause (a);
- (c) delay the effective date of a price increase;
- (d) impose conditions on a public agency or other person with regard to the implementation of a price increase; or
- (e) exercise any combination of the powers in clauses (a), (b), (c) and (d).

Where order may be made

(2) No order shall be made under subsection (1) except with regard to a price increase occurring within the period referred to in subsection 27 (2).

Implementation of order

(3) Notwithstanding any other Act or regulation made thereunder, an order made under subsection (1) shall be implemented in accordance with its terms by the public agency, public regulatory agency or other person affected thereby.

Information

30.—(1) For the purpose of carrying out its duties under section 27, the Board may by notice require public agencies, public regulatory agencies and persons whose prices are regulated by public regulatory agencies to file with the Board such reasonably necessary information concerning administered prices as is specified in the notice and that is in their possession or to which they may reasonably be expected to have access.

Compliance with notice

(2) Every public agency, public regulatory agency or person to whom a notice referred to in subsection (1) is directed or sent shall comply therewith within such reasonable time as is specified in the notice and thereafter at such regular intervals, if any, as are specified in the notice.

(3) Notwithstanding subsection (2), the Board may, on request in writing from any agency or person to whom a notice referred to in subsection (1) is directed or sent, extend any time within which or any interval at which the agency or person is required to comply with the notice.

Extension of
time for
compliance

31.—(1) Except as provided in this section, all information with respect to administered prices that is, in its nature, confidential and that is obtained by the Board or by any person engaged in carrying out duties of the Board under this Part, in the course of carrying out those duties, is privileged and no person shall knowingly, except as expressly provided in this or any other Act, communicate or allow to be communicated to any person any such information except for the purposes of the administration of this Part or allow any person to inspect or have access to any such information except for the purposes of the administration or enforcement of this part.

Confiden-
tiality of
information

(2) Any information with respect to an administered price obtained by the Board or by any person engaged in carrying out the duties of the Board in the course of carrying out those duties, may, on request in writing to the chairman of the Board by or on behalf of the agency or person to which the information relates, be communicated to any person or authority named in the request on such terms and conditions and under such circumstances as are approved by the chairman of the Board.

Disclosure of
information,
where
permitted

(3) Notwithstanding any other Act or law, no minister of the Crown and no person employed in the administration of this Act shall be required, in connection with any legal proceedings, to give evidence relating to any information that is privileged under subsection (1) or to produce any statement or other writing containing such information.

Evidence

(4) Subsections (1) and (3) do not apply in respect of matters being considered by the Board under this Part or to any proceedings in a court of law relating to the administration of this Part.

Exception

(5) Any person who knowingly communicates or allows to be communicated any information in contravention of subsection (1) is guilty of an offence.

Offence

32. The Lieutenant Governor in Council may make regulations further defining the terms “public agency” and “public regulatory agency”.

Regulations

PART IV

PRIVATE SECTOR MONITORING

Powers and
duties**33.** The Board shall,

- (a) monitor the pattern of changes in prices and wages in the private sector of the economy of Ontario generally and report its findings to the Minister from time to time as required by the Minister; and
- (b) through such methods as it considers appropriate, promote public understanding of the inflationary process, and the relationships between productivity, costs and prices.

PART V

GENERAL

Moneys

34. The moneys required for the purposes of this Act shall, until the 31st day of March, 1983, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Annual
reports

35. The Board shall make an annual report of its activities under Part II to the Treasurer and an annual report of its activities under Parts III and IV to the Minister, and the Treasurer and the Minister shall table the respective reports before the Assembly if it is in session or, if not, at the next ensuing session.

Commence-
ment

36. This Act shall be deemed to have come into force on the 21st day of September, 1982.

Short title

37. The short title of this Act is the *Inflation Restraint Act, 1982*.

SCHEDULE

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario
2. CJRT-FM Inc.
3. Royal Botanical Gardens

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:
 - (a) observation and detention homes operating under sections 27, 28, 29 and 30 of the *Provincial Courts Act* (R.S.O. 1980, c. 398);
 - (b) homes for the aged operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (c) counselling services, special assistance and staff training services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
 - (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (e) home support services for the elderly funded by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (f) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
 - (g) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;
 - (h) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (i) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (j) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (k) services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
 - (l) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (m) approved children's institutions under the *Children's Institutions Act* (R.S.O. 1980, c. 67);

- (n) approved children's mental health centres under the *Children's Mental Health Services Act* (R.S.O. 1980, c. 69);
 - (o) services to children purchased by the Ministry of Community and Social Services under the *Children's Mental Health Services Act* (R.S.O. 1980, c. 69, s. 11);
 - (p) services funded under the *Developmental Services Act* (R.S.O. 1980, c. 118);
 - (q) homes for retarded persons approved under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201);
 - (r) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
 - (s) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
 - (t) training schools and group homes providing services under the *Training Schools Act* (R.S.O. 1980, c. 508);
 - (u) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (v) probation and after-care services, residential services and supervisory services to children on probation under agreement with the Ministry of Community and Social Services under the *Children's Probation Act* (R.S.O. 1980, c. 70) or under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
2. Children's aid societies operating under the *Child Welfare Act* (R.S.O. 1980, c. 66) and agencies from whom children's aid societies purchase child care services.
3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).
4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).
5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,
- (a) assistance to witnesses and victims of crime, or other disabled groups;
 - (b) educational, employment search, medical or promotional services;
 - (c) supervision of inmates, parolees, probationers or persons accused of crime;
 - (d) community residential services.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:

- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
- (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);
- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Public Health Act* (R.S.O. 1980, c. 409);
- (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Minister of Health;
- (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
- (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or which, by arrangement with any such home care facility,
 - (i) supplies homemaking, nursing, physiotherapy, occupational therapy or speech therapy services which are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
- (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
- (h) a detoxification centre the operation of which is funded in whole or in part by the Minister of Health;
- (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Minister of Health;
- (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Minister of Health.

2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).

- 3. (a) Booth Avenue Hospital Laundry, Inc.;
- (b) Centennial Hospital Linen Services;
- (c) Cornwall Regional Hospital Linen Services;
- (d) Kawartha Hospital Linen Services;

- (e) Kingston Regional Hospital Laundry Inc.;
 - (f) London Hospital Linen Services, Inc.;
 - (g) Mohawk Hospital Linen Services;
 - (h) Nipissing Area Joint Hospitals Laundry, Inc.;
 - (i) Ottawa Regional Linen Services, Inc.;
 - (j) Sudbury Hospital Services;
 - (k) Windsor Hospital Linen Services, Inc.
4. Ottawa-Carleton Regional Hospital Food Services Inc.
 5. Toronto Hospitals Steam Corporation
 6. The Alcoholism and Drug Addiction Research Foundation
 7. The Canadian Red Cross Society
 8. The Hospital Council of Metropolitan Toronto
 9. The Hospital Medical Records Institute
 10. The Ontario Cancer Institute
 11. The Ontario Cancer Treatment and Research Foundation
 12. The Ontario Mental Health Foundation
 13. The Ontario Council of Health
 14. The Toronto Institute of Medical Technology

MINISTRY OF INDUSTRY AND TRADE

1. Metropolitan Toronto Convention Centre

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:
 - (a) The collection, removal and disposal of garbage and other refuse for a municipality;
 - (b) The operation and maintenance of buses, for the conveyance of passengers under an agreement with a municipality.
2. Exhibition Stadium Corporation

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

1. St. Clair Parkway Commission

MINISTRY OF TREASURY AND ECONOMICS

1. Ontario Municipal Employees Retirement Board

An Act respecting the Restraint of
Compensation in the Public Sector of
Ontario and the Monitoring of Inflationary
Conditions in the Economy of the Province

1st Reading

September 21st, 1982

2nd Reading

October 19th, 1982

3rd Reading

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

(Reprinted as amended by the
Committee of the Whole House)

BILL 179

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics

BILL 179

1982

**An Act respecting the Restraint of
Compensation in the Public Sector of Ontario
and the Monitoring of Inflationary Conditions
in the Economy of the Province**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Inflation Restraint Board;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "regulations" means the regulations made under this Act;
- (d) "Treasurer" means the Treasurer of Ontario and Minister of Economics.

PART I

INFLATION RESTRAINT BOARD

2.—(1) There is hereby established a board to be known as the Inflation Restraint Board. Board
established

(2) The Board shall consist of not fewer than three members who shall be appointed by the Lieutenant Governor in Council to hold office for a term to be determined by the Lieutenant Governor in Council. Composition

(3) The Lieutenant Governor in Council shall designate one of the members as chairman of the Board, and one or more vice-chairmen from among the members of the Board and the chairman shall have responsibility for assigning among the members the matters to be resolved by the Board. Chairman
and
vice-chairmen

One or more members may determine matter

(4) The chairman may in writing authorize one or more members of the Board to determine any matter to be determined by the Board and for that purpose the member or members may exercise all the jurisdiction and powers of the Board and his or their decision on the matter shall be the decision of the Board and where more than one member is assigned to determine any matter, the decision of the majority of such members is the decision of the Board.

Remuneration and expenses

(5) Such members of the Board as are not officers in the public service of Ontario shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, are entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties under this Act while absent from their ordinary places of residence.

Removal from office

(6) A member of the Board may be removed by the Lieutenant Governor in Council from office before the expiration of his term, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of the term.

Board may make rules

3.—(1) The Board may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters coming before it, and may require that any person seeking a determination by the Board of any matter shall give written notice, in such form and manner as the Board specifies, to such others as the Board specifies.

Services of ministries, boards, etc.

(2) In exercising its powers under this Act, the Board shall, where appropriate, make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Staff

(3) The Board may, subject to the approval of Management Board of Cabinet, use the services of staff seconded to the Board from the public service of Ontario or engage under contract such persons as are considered necessary from time to time for the proper conduct of the affairs of the Board.

Hearings

(4) The Board may, in its discretion where it considers it desirable to do so, hold an oral hearing and where the Board does so, the *Statutory Powers Procedure Act* applies, except that, whether or not the Board holds an oral hearing, the Board is not required to give reasons for any final order, decision or determination made by it, but notwithstanding the *Statutory Powers Procedure Act* or any other rule of law, the Board is not required to hold any oral hearing before making any order, decision or determination that it is authorized to make.

R.S.O. 1980,
c. 484

(5) No action for damages lies against any member or any employee of the Board for, No action for damages

(a) any act done in good faith in the performance or exercise of a power or duty; or

(b) any neglect or default in the performance or exercise in good faith of that power or duty under this Act.

(6) Subsection (5) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort to which it would otherwise be subject, and the Crown is liable under that Act for any tort in a like manner as if subsection (5) had not been enacted. Crown not relieved of liability R.S.O. 1980, c. 393

PART II

PUBLIC SECTOR COMPENSATION RESTRAINT

4. In this Part,

Interpretation

(a) “administrator”, in relation to a compensation plan, means,

(i) where the compensation plan is administered by an employer, the employer,

(ii) where the compensation plan is administered by a person other than an employer, that person, and

(iii) where the administrator is not readily determinable under subclause (i) or (ii), the person, association or entity determined by the Board to be the administrator;

(b) “anniversary date” means the anniversary of the stated effective date of a compensation plan or, where the plan has no stated effective date, the date as determined by the Board;

(c) “collective agreement” means a collective agreement as defined in the *Labour Relations Act*, an agreement referred to in subsection 5 (1) of the *Fire Departments Act* or subsection 29 (2) of the *Police Act*, a decision resulting from arbitration that, by operation of law or agreement, governs working conditions or terms of compensation, and any agreement between a unit of employees established for collective bargaining and an employer or person in the position of an employer for defining, determining or providing for working conditions or terms of compensation; R.S.O. 1980, cc. 228, 164, 381

- (d) "compensation" means all forms of payment, benefits and perquisites paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle that person to be paid a fixed or ascertainable amount;
- (e) "compensation plan" means the provisions, however established, for the determination and administration of compensation, and includes such provisions contained in collective agreements or established bilaterally between an administrator and an employee, unilaterally by an administrator or by or pursuant to any Act of the Legislature;
- (f) "compensation rates" means single rates of remuneration or ranges of rates of remuneration, including cost-of-living adjustments, or, where no such rates or ranges exist, any fixed or ascertainable amounts of remuneration;
- (g) "employee" means any person who performs duties and functions that entitle that person to a fixed or ascertainable amount or rate of remuneration;
- (h) "full-time employee" means an employee whose regular work week exceeds thirty hours;
- (i) "municipality" means a county, city, town, village and township and includes a metropolitan, regional or district municipality.

Deemed
expiry
date
R.S.O. 1980,
c. 308

5.—(1) Notwithstanding subsection 8 (3), a compensation plan in respect of those persons mentioned in clause 6 (5) (b) who are elected to office in accordance with the *Municipal Elections Act* and of those persons mentioned in clauses 6 (5) (a) and (c) shall be deemed to expire on the 30th day of November, 1982.

Idem

(2) Notwithstanding subsection 8 (3), the compensation plan of members of the Assembly shall be deemed to expire on the 31st day of March, 1983.

Application

6.—(1) This Part applies to the compensation plans of employees employed in or by,

- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;

- (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario; R.S.O. 1980,
c. 303
- (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown; R.S.O. 1980,
c. 129
- (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*; R.S.O. 1980,
cc. 410, 389,
79, 391
- (e) every corporation with share capital, 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (g) every local board of health of a municipality or of a health unit under the *Public Health Act*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality; R.S.O. 1980,
c. 409
- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Legislature of Ontario, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the

Schedule hereto or added to the Schedule by the regulations.

Idem (2) This Part applies to the compensation plans of members and directors of corporations and boards described in clauses (1) (a), (b), (c), (d), (e), (f), (g) and (i) or of wholly-owned subsidiaries of such corporations.

Idem (3) This Part applies to the compensation plans of persons appointed by the Lieutenant Governor in Council to a position in the public service of Ontario, to a board, commission or corporation described in subsection (1) or to a wholly-owned subsidiary of such corporation, and to the compensation plans of judges as defined in the *Provincial Courts Act* and of small claims court judges appointed under the *Small Claims Courts Act*.

R.S.O. 1980,
cc. 398, 476

Idem (4) This Part applies to the compensation plans of members of the Assembly.

Idem (5) This Part applies to the compensation plans of members of,

(a) the councils of every municipality;

R.S.O. 1980,
c. 303

(b) every local board as defined in the *Municipal Affairs Act*;

R.S.O. 1980,
c. 129

(c) every board as defined in the *Education Act*.

Binding on
Her Majesty

7. This Act is binding on Her Majesty in right of Ontario.

Continuation
of
existing
compensation
plans
1981, c. 53;
R.S.O. 1980,
c. 137

8.—(1) Notwithstanding any other Act, except the *Human Rights Code, 1981*, and section 33 of the *Employment Standards Act*, every compensation plan that is in effect on the 21st day of September, 1982, shall be continued without change to and including its scheduled expiry date.

Where prior
agreement to
establish plan

(2) Where a compensation plan that is included in a collective agreement would have expired before the 1st day of October, 1982, and the parties to the collective agreement have, prior to the 22nd day of September, 1982, reached an agreement in writing on all the terms of the compensation plan to be established as of the expiry of the previous compensation plan, and the plan so agreed on is established and goes into effect on or after the 21st day of September, 1982 without change, the compensation plan so agreed on shall, for the purposes of subsection (1) and sections 9 and 11, be deemed to be in effect on the 21st day of September, 1982.

(3) Except as extended or made subject to this Part by sections 9 and 11, and for the purpose only of this Part, every compensation plan to which this Part applies, Deemed expiry

- (a) that, by the law applicable thereto or by the terms of the agreement that gave effect to the plan, is to be effective for a minimum period of time, is deemed to expire at the end of that minimum period of time, notwithstanding that, under such law or agreement, the plan might be continued beyond that time;
- (b) that is a compensation plan to which clause (a) does not apply and in which there is a usual or customary period of time (not exceeding one year in length) for which terms and conditions of compensation are applicable, is deemed to expire at the end of that usual or customary period of time that includes the 21st day of September, 1982; or
- (c) to which neither clause (a) nor (b) applies, is deemed to expire on the day determined by the Board as the expiry date of the plan.

(4) Where a compensation plan to which this Part applies and to which subsection (1) or (2) is also applicable, provides for any increase in the value of compensation in the twelve-month period referred to in clause 11 (b), such increase in value shall not take effect or come into force in that twelve-month period, but nothing in this subsection prevents an application's being brought under section 14 in respect of a change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates to take effect in that twelve-month period. Increases in compensation

9. Every compensation plan that, but for this section, would have expired before the 1st day of October, 1982, shall be extended, Extension of compensation plan already expired

- (a) where the compensation plan would have expired on or after the 1st day of October, 1981, for the twelve-month period immediately following the day the plan would have expired; and
- (b) where the compensation plan would have expired before the 1st day of October, 1981, for the period commencing with the day immediately following the day the plan would have expired and ending with the day immediately preceding the plan's anniversary date next following the 1st day of October, 1982.

Increase in
compensation
rates under
extended plan

10. A compensation plan that is extended under section 9 shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the day that, but for section 9, the plan would have expired shall be increased,

- (a) in the case of a compensation plan referred to in clause 9 (a), for the twelve-month period referred to in that clause, by not more than 9 per cent; and
- (b) in the case of a compensation plan referred to in clause 9 (b),
 - (i) for that part of the period referred to in that clause and prior to the first day of the last twelve months of that period, by such amount as the Board, in its discretion, may authorize, and
 - (ii) for the last twelve months of the period referred to in that clause, by not more than 9 per cent.

Extension
of existing
compensation
plans

11. Every compensation plan that is in effect on the 21st day of September, 1982, to which this Part applies and that expires on or after the 1st day of October, 1982, including every compensation plan extended under section 9, shall,

- (a) where the expiry date is scheduled to occur on or after the 1st day of October, 1982 and prior to the 1st day of October, 1983, be extended for the twelve-month period immediately following the scheduled expiry date; and
- (b) where the expiry date is scheduled to occur on or after the 1st day of October, 1983, be subject to this Part for the twelve-month period commencing with the plan's anniversary date falling within the period beginning with the 2nd day of October, 1982 and ending with the 1st day of October, 1983.

Increase in
compensation
rates under
extended plan

12.—(1) Notwithstanding any other Act, every compensation plan to which this Part applies shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the first to occur of either,

- (a) the day that, but for section 11, the plan would expire;
or
- (b) the day immediately preceding the plan's anniversary date referred to in clause 11 (b),

shall be increased for the twelve-month period immediately following the day determined in accordance with clauses (a) and (b),

(c) in the case of a compensation plan included in a collective agreement, by 5 per cent; and

(d) in any other case, by not more than 5 per cent.

(2) Notwithstanding any other Act or section 10 and subsection (1) of this section, where a person receives an increase referred to in the said subsection (1), in clause 10 (a) or in subclause 10 (b) (ii) that will, during the applicable period referred to in those provisions, amount to less than \$1,000 for any full-time employee, the administrator of the compensation plan of which such full-time employee is a member may, in his discretion, pay to such full-time employee additional compensation in that period equal to the difference between \$1,000 and the total amount of the increase in that period of such employee's compensation in accordance with this Part other than this subsection, and,

\$1,000
minimum
increase

(a) where a person who is not a full-time employee is performing substantially the same kind of work as a full-time employee and does so for an employer who has granted to his full-time employees performing that kind of work an increase in accordance with this subsection, the administrator of the compensation plan of which such person is a member may, in his discretion, pay to such person in that period additional compensation necessary to provide that, after taking the increase allowed by this subsection into account, the ratio of the compensation rate of the full-time employee to whom an increase under this subsection is paid to the compensation rate of the person to whom an increase under this subsection is paid is the same as the ratio of their compensation rates immediately before the commencement of the applicable period; and

(b) where a person is neither a full-time employee nor a person to whom clause (a) applies, the administrator of the compensation plan of which the person is a member may, in his discretion, pay to the person in the applicable period additional compensation necessary to provide that the increase in compensation received by the person in that period under this Part, including this subsection, is the same percentage of \$1,000 that the hours worked in that period by the person is of 2,000 hours,

provided that no increase under this subsection shall be paid to the extent that the total amount of such increase during the applicable period, when added to the total amount in that period of the increase referred to in section 10 and in the provisions of this section other than this subsection, exceeds \$1,000.

\$750 minimum
increase

(3) Notwithstanding subsection (2), the increase that any person may receive under that subsection shall not be less than the increase that would be payable to him under that subsection if it were enacted herein,

- (a) with the sum of \$750 substituted in every case where \$1,000 is mentioned; and
- (b) with the word "shall" substituted in every case where the expression "may, in his discretion," is mentioned,

but this subsection does not prevent the granting of an increase or the exercise of discretion under subsection (2) where the increase that could be given under that subsection is greater than the increase required to be given in accordance with this subsection.

Exception

(4) Subsections (2) and (3) do not apply in respect of a person whose annual compensation rate exceeds \$20,000.

Merit
increases
restricted

(5) During the period commencing with the 21st day of September, 1982 and ending with the expiry of the twelve-month period referred to in subsection (1), no increase in compensation, for or in recognition of,

- (a) meritorious or satisfactory work performance;
- (b) the completion of a specified period of work experience;
- (c) the successful completion of a program or course of professional or technical education;
- (d) regularly scheduled increments in remuneration; or
- (e) length of time in employment,

may be paid to or received by a person who is a member of a compensation plan to which this Part applies to the extent that such increase would, at the time the person becomes entitled to it, increase his or her annual compensation above \$35,000, but nothing in this subsection prevents increases in compensation as a result of the proper promotion of a person to a different or more responsible position, the compensation plan for which was established,

- (f) before the 21st day of September, 1982; or
- (g) with the approval of the Board; or
- (h) after the usual and proper evaluation of the compensation applicable to that position.

13. Notwithstanding any other Act except the *Human Rights Code, 1981* and section 33 of the *Employment Standards Act*, but subject to section 14, the terms and conditions of,

Terms and conditions continued in force
1981, c. 53
R.S.O. 1980,
c. 137

- (a) every compensation plan that is extended or made subject to this Part under section 9 or 11; and
- (b) every collective agreement that includes such a compensation plan,

shall, subject to this Part, continue in force without change for the period for which the compensation plan is extended or made subject to this Part.

14.—(1) Where the parties to a collective agreement,

Disputed matters

- (a) cannot agree on the amount of the increase in compensation rates to which members of the compensation plan included in the collective agreement are entitled under clause 10 (a) or subclause 10 (b) (ii);
- (b) cannot agree on the value to be placed on a proposed change to any terms and conditions of the compensation plan equivalent to an increase in compensation rates, but are agreed on all other aspects of the proposed change; or
- (c) have agreed on all aspects of a proposed change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates, including the value thereof,

either party may apply to the Board in accordance with such procedure as the Board specifies to have the disputed matters resolved or, in the case of a proposed change referred to in clause (c), to have the proposed change reviewed by the Board, and the Board shall, in accordance with this Act and in its discretion, determine, as the case requires, the amount of the increase in compensation rates to which the members of the compensation plan are entitled or the value to be placed on a proposed change referred to in clause (b) or (c), provided that,

- (d) for the period referred to in clause 10 (a) or subclause 10 (b) (ii), such increase, or the value of such proposed change, does not constitute an increase that is, or that is equivalent to, more than the increase referred to in those provisions; and
- (e) for the period referred to in subsection 12 (1), the value of such proposed change does not constitute an increase that is equivalent to more than the increase permitted under section 12.

Proposed
changes
to be
approved

(2) Where the administrator of a compensation plan that is not included in a collective agreement proposes to change any terms and conditions of the plan, and the change, if made, would be equivalent to an increase in compensation rates under the plan, the administrator shall, before the proposed change may be implemented, apply to the Board in accordance with such procedure as the Board specifies to have the proposed change reviewed, and the Board may, in accordance with this Part and in its discretion, determine the value to be placed on the proposed change and approve, reject or vary the terms thereof as it sees fit, provided that, for the period for which the proposed change (as approved or varied by the Board) is to be effective, the value thereof, together with any other increases in the period in accordance with this Part, does not constitute an increase equivalent to more than an increase authorized by this Part for the period, and the proposed change, as approved or varied by the Board, may be implemented.

Board may
review
decision
under
s. 12 (2)

(3) The failure of the administrator of a compensation plan to exercise, or to exercise fully, the discretion conferred on him by subsection 12 (2) and in accordance with subsection 12 (3) is, on the application to the Board of a party affected thereby, reviewable by the Board, and the Board may, in accordance with those subsections, make any decision that the administrator could or should have made, and its decision shall be implemented by the administrator.

Amendment
of terms and
conditions

15. The parties to a collective agreement that includes a compensation plan that is extended under section 11 may, by agreement, amend any terms and conditions of the collective agreement other than compensation rates or other terms and conditions of the compensation plan.

Where
provision of
compensation
plan of no
effect

16. Notwithstanding any other Act or any agreement, any provision of a compensation plan to which this Part applies that provides for an increase in compensation rates in excess of the limits set out in this Part on or after the 21st day of September, 1982 shall be of no effect.

17.—(1) The Board has such powers and shall perform such duties and functions in relation to this Part as are necessary to enable it to determine whether a compensation plan to which this Part applies complies with this Part. Powers and duties of Board

(2) Notwithstanding any other Act, the Board may in writing require from an administrator of a compensation plan to which this Part applies, or from any other person in possession of information that in the opinion of the Board is or may be relevant to the compensation plan and the administrator or person shall provide, within such reasonable time as is specified by the Board, such information and documentation as the Board reasonably considers necessary to enable it to make a determination as to whether or not the compensation plan complies with this Part. Information to be provided

(3) Any administrator or person who fails without reasonable excuse to comply with subsection (2) is guilty of an offence. Offence

(4) The Board may receive and accept any evidence and information on oath, affidavit or otherwise as in its discretion it considers proper, whether or not it is admissible as evidence in a court. Evidence

(5) The Board may recommend to the Lieutenant Governor in Council that any or all of the members of any compensation plan to which this Part applies be no longer subject to the application of this Part where, in the opinion of the Board, there exist special circumstances justifying that recommendation and the special circumstances on which the Board relies shall be set out in its recommendation. Recommendation by the Board

18. The Board has in the exercise of any of its authority under this Part the powers of a commission under Part II of the *Public Inquiries Act*. Application R.S.O. 1980, c. 411, Pt. II

19. A provision of a compensation plan, to which this Part applies, entered into or established at any time, is of no force or effect to the extent that it provides for an increase in compensation rates that would bring compensation rates to a level that they would, but for this Act, have reached. Provisions of compensation plans that are of no force or effect

20. Where the Board determines that a compensation plan does not comply with this Part the Board shall, Where compensation plan does not comply

- (a) notify in writing the administrator of the compensation plan and any other person the Board considers appropriate that the plan does not comply;

- (b) notify in writing the administrator of the compensation plan and any other person the Board considers appropriate of the maximum allowable increase in compensation that the Board considers would so comply;
- (c) give such directions to the administrator as the Board considers necessary to ensure the distribution to the persons whose compensation plan is found not to comply of the information given to the administrator by the Board under clauses (a) and (b); and;
- (d) provide the parties to the compensation plan with an opportunity to reach or establish a plan that complies with this Part.

Order of
the Board

21.—(1) Notwithstanding section 20, where the Board determines that a compensation plan does not comply with this Part, and that the administrator of the compensation plan is implementing, has implemented or is likely to implement an increase in compensation in a compensation plan that does not comply with this Part, the Board may make an order,

- (a) prohibiting, in the manner it specifies, the administrator from implementing the increases in compensation that do not comply with this Part;
- (b) requiring a recipient of compensation under the compensation plan to pay back to the administrator or to pay to the Treasurer any increase in compensation that does not comply with this Part;
- (c) requiring the administrator to withhold, in the manner and at the time specified by the Board, from future compensation the amount of any increase in compensation that has been received by a member of the compensation plan in excess of the increase permitted under this Part, and the Board may require any amount so withheld to be paid to the Treasurer.

Notice to
administrator

(2) The Board shall, in writing, notify an administrator of a compensation plan affected by an order made under this section.

Notice to
persons
affected

(3) On the order of the Board, an administrator shall, in writing, notify the persons whose compensation plan is affected by an order made under this section.

Inspection
of order

(4) An order of the Board is a public document and shall be made available for inspection at the office of the Board during normal business hours.

22.—(1) Notwithstanding section 21, where the Board has Agreements determined that a compensation plan does not comply with this Part, the Board may enter into a written agreement with the administrator that the Board will not,

(a) make an order under subsection 21 (1); or

(b) where it has already made an order under subsection 21 (1), file the order with the court under section 24,

so long as the administrator complies with any conditions established by the Board.

(2) Where the Board has determined that the administrator is Where administrator in breach of conditions in breach of any of the conditions established by the Board in an agreement under subsection (1),

(a) the Board shall notify the administrator in writing;

(b) the agreement is rescinded; and

(c) the Board may exercise any of its powers under this Part.

(3) An agreement under subsection (1) is a public document Inspection of agreement and shall be made available for inspection at the office of the Board during normal business hours.

23.—(1) The Board may reconsider and revoke, in whole or Revocation, amendment, etc., of order or decision in part, amend or vary a decision or order it has made.

(2) The Board may impose any conditions it considers necessary Conditions in respect of any decision or order made by it.

24.—(1) A copy of an order of the Board, certified by a member of the Board, may be filed in the office of the Registrar of the Supreme Court by the Board and, if it is for the payment of money, it may be enforced at the instance of the Board in the name of the Board in the same manner as a judgment of that court, and in all other cases by an application by the Board to the court for such order as the court may consider just. Enforcement of order

(2) Where the Board makes an order rescinding or varying an order previously made by it that has been filed under subsection (1), Where order varied or rescinded

(a) if the order rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or

- (b) if the order varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order filed under subsection (1).

Regulations

25.—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating any compensation plan or class thereof to which this Part applies and the date as of which this Part shall be applicable thereto, and where necessary, prescribing the manner in which this Part shall be applied;
- (b) terminating in whole or in part the application of this Part in respect of a compensation plan or compensation plans to which this Part applies;
- (c) where it is considered necessary for the restraint of public sector expenditure, adding to or deleting from the Schedule any person or any class of persons, or any agency, authority, board, commission, corporation or organization of any kind;
- (d) further defining the expression “compensation plan” or prescribing the person or class of persons whose method of compensation shall be deemed to be a compensation plan for the purposes of this Act;
- (e) further defining the expression “compensation” or prescribing amounts or benefits, or classes of amounts or benefits, which shall be deemed to be compensation for the purposes of this Act;
- (f) defining any word or expression not already expressly defined in this Act.

Retroactivity

(2) A regulation made under subsection (1) may, if it so provides, be made retroactive in its operation to a day not earlier than the 21st day of September, 1982.

PART III

ADMINISTERED PRICES

Interpretation

26. In this Part,

- (a) “administered price” means,

- (i) a price, user charge or fee charged by a public agency, and
 - (ii) a price, user charge or fee required, permitted or authorized by a public regulatory agency to be charged by another person;
- (b) "price increase" means an increase or a proposed increase in an administered price;
- (c) "public agency" means an agency, board, commission or corporation, including any wholly-owned subsidiary corporation, established or controlled by the Crown in right of Ontario, which provides any product or service for which a price, user charge or fee is charged;
- (d) "public regulatory agency" means any ministry, agency, board, commission or corporation established or controlled by the Crown in right of Ontario which approves, establishes, regulates or requires particular prices, user charges or fees to be charged for any product or service.

27.—(1) The Minister shall establish economic criteria by which price increases shall be reviewed. Minister to establish economic criteria

(2) Where the Minister is of the opinion that a price increase may not conform with the criteria, he may refer the price increase to the Board for investigation where the price increase occurs on or after the 21st day of September, 1982 and before the later of, Reference to Board for investigation

(a) the 1st day of January, 1984; and

(b) in the case of a public agency or a person regulated by a public regulatory agency that has implemented a price increase on or after the 21st day of September, 1982 and prior to the 1st day of January, 1984, the day one year from the last such increase.

(3) Where a price increase is referred to the Board by the Minister, the Board shall, Powers and duties of the Board

(a) investigate and report on the price increase and determine whether it conforms with the criteria;

(b) where requested by the Minister, determine, or request the public agency or public regulatory agency concerned to determine, the maximum price increase which would so conform; and

- (c) report to the Minister the result of its investigation and determination under clauses (a) and (b).

Recommendations to L.G. in C.

28. The Minister shall review a report of the Board made under clause 27 (3) (c) and make recommendations to the Lieutenant Governor in Council with respect to the price increase.

Order of L.G. in C.

29.—(1) Notwithstanding any other Act, the Lieutenant Governor in Council on the recommendation of the Minister may by order,

- (a) disallow a price increase in whole or in part;
- (b) where appropriate, substitute a price increase for the price increase disallowed under clause (a);
- (c) delay the effective date of a price increase;
- (d) impose conditions on a public agency or other person with regard to the implementation of a price increase; or
- (e) exercise any combination of the powers in clauses (a), (b), (c) and (d).

Where order may be made

(2) No order shall be made under subsection (1) except with regard to a price increase occurring within the period referred to in subsection 27 (2).

Implementation of order

(3) Notwithstanding any other Act or regulation made thereunder, an order made under subsection (1) shall be implemented in accordance with its terms by the public agency, public regulatory agency or other person affected thereby.

Information

30.—(1) For the purpose of carrying out its duties under section 27, the Board may by notice require public agencies, public regulatory agencies and persons whose prices are regulated by public regulatory agencies to file with the Board such reasonably necessary information concerning administered prices as is specified in the notice and that is in their possession or to which they may reasonably be expected to have access.

Compliance with notice

(2) Every public agency, public regulatory agency or person to whom a notice referred to in subsection (1) is directed or sent shall comply therewith within such reasonable time as is specified in the notice and thereafter at such regular intervals, if any, as are specified in the notice.

(3) Notwithstanding subsection (2), the Board may, on request in writing from any agency or person to whom a notice referred to in subsection (1) is directed or sent, extend any time within which or any interval at which the agency or person is required to comply with the notice. Extension of time for compliance

31.—(1) Except as provided in this section, all information with respect to administered prices that is, in its nature, confidential and that is obtained by the Board or by any person engaged in carrying out duties of the Board under this Part, in the course of carrying out those duties, is privileged and no person shall knowingly, except as expressly provided in this or any other Act, communicate or allow to be communicated to any person any such information except for the purposes of the administration of this Part or allow any person to inspect or have access to any such information except for the purposes of the administration or enforcement of this part. Confidentiality of information

(2) Any information with respect to an administered price obtained by the Board or by any person engaged in carrying out the duties of the Board in the course of carrying out those duties, may, on request in writing to the chairman of the Board by or on behalf of the agency or person to which the information relates, be communicated to any person or authority named in the request on such terms and conditions and under such circumstances as are approved by the chairman of the Board. Disclosure of information, where permitted

(3) Notwithstanding any other Act or law, no minister of the Crown and no person employed in the administration of this Act shall be required, in connection with any legal proceedings, to give evidence relating to any information that is privileged under subsection (1) or to produce any statement or other writing containing such information. Evidence

(4) Subsections (1) and (3) do not apply in respect of matters being considered by the Board under this Part or to any proceedings in a court of law relating to the administration of this Part. Exception

(5) Any person who knowingly communicates or allows to be communicated any information in contravention of subsection (1) is guilty of an offence. Offence

32. The Lieutenant Governor in Council may make regulations further defining the terms “public agency” and “public regulatory agency”. Regulations

PART IV

PRIVATE SECTOR MONITORING

Powers and
duties**33.** The Board shall,

- (a) monitor the pattern of changes in prices and wages in the private sector of the economy of Ontario generally and report its findings to the Minister from time to time as required by the Minister; and
- (b) through such methods as it considers appropriate, promote public understanding of the inflationary process, and the relationships between productivity, costs and prices.

PART V

GENERAL

Moneys

34. The moneys required for the purposes of this Act shall, until the 31st day of March, 1983, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Annual
reports

35. The Board shall make an annual report of its activities under Part II to the Treasurer and an annual report of its activities under Parts III and IV to the Minister, and the Treasurer and the Minister shall table the respective reports before the Assembly if it is in session or, if not, at the next ensuing session.

Commence-
ment

36. This Act shall be deemed to have come into force on the 21st day of September, 1982.

Short title

37. The short title of this Act is the *Inflation Restraint Act, 1982*.

SCHEDULE

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario
2. CJRT-FM Inc.
3. Royal Botanical Gardens

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:

- (a) observation and detention homes operating under sections 27, 28, 29 and 30 of the *Provincial Courts Act* (R.S.O. 1980, c. 398);
- (b) homes for the aged operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
- (c) counselling services, special assistance and staff training services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
- (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (e) home support services for the elderly funded by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (f) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
- (g) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;
- (h) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (i) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (j) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
- (k) services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
- (l) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (m) approved children's institutions under the *Children's Institutions Act* (R.S.O. 1980, c. 67);

- (n) approved children's mental health centres under the *Children's Mental Health Services Act* (R.S.O. 1980, c. 69);
 - (o) services to children purchased by the Ministry of Community and Social Services under the *Children's Mental Health Services Act* (R.S.O. 1980, c. 69, s. 11);
 - (p) services funded under the *Developmental Services Act* (R.S.O. 1980, c. 118);
 - (q) homes for retarded persons approved under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201);
 - (r) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
 - (s) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
 - (t) training schools and group homes providing services under the *Training Schools Act* (R.S.O. 1980, c. 508);
 - (u) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (v) probation and after-care services, residential services and supervisory services to children on probation under agreement with the Ministry of Community and Social Services under the *Children's Probation Act* (R.S.O. 1980, c. 70) or under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
2. Children's aid societies operating under the *Child Welfare Act* (R.S.O. 1980, c. 66) and agencies from whom children's aid societies purchase child care services.
3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).
4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).
5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,
- (a) assistance to witnesses and victims of crime, or other disabled groups;
 - (b) educational, employment search, medical or promotional services;
 - (c) supervision of inmates, parolees, probationers or persons accused of crime;
 - (d) community residential services.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:

- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
- (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);
- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Public Health Act* (R.S.O. 1980, c. 409);
- (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Minister of Health;
- (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
- (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or which, by arrangement with any such home care facility,
 - (i) supplies homemaking, nursing, physiotherapy, occupational therapy or speech therapy services which are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
- (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
- (h) a detoxification centre the operation of which is funded in whole or in part by the Minister of Health;
- (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Minister of Health;
- (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Minister of Health.

2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).

- 3. (a) Booth Avenue Hospital Laundry, Inc.;
- (b) Centennial Hospital Linen Services;
- (c) Cornwall Regional Hospital Linen Services;
- (d) Kawartha Hospital Linen Services;

- (e) Kingston Regional Hospital Laundry Inc.;
 - (f) London Hospital Linen Services, Inc.;
 - (g) Mohawk Hospital Linen Services;
 - (h) Nipissing Area Joint Hospitals Laundry, Inc.;
 - (i) Ottawa Regional Linen Services, Inc.;
 - (j) Sudbury Hospital Services;
 - (k) Windsor Hospital Linen Services, Inc.
4. Ottawa-Carleton Regional Hospital Food Services Inc.
 5. Toronto Hospitals Steam Corporation
 6. The Alcoholism and Drug Addiction Research Foundation
 7. The Canadian Red Cross Society
 8. The Hospital Council of Metropolitan Toronto
 9. The Hospital Medical Records Institute
 10. The Ontario Cancer Institute
 11. The Ontario Cancer Treatment and Research Foundation
 12. The Ontario Mental Health Foundation
 13. The Ontario Council of Health
 14. The Toronto Institute of Medical Technology

MINISTRY OF INDUSTRY AND TRADE

1. Metropolitan Toronto Convention Centre

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides:
 - (a) The collection, removal and disposal of garbage and other refuse for a municipality;
 - (b) The operation and maintenance of buses, for the conveyance of passengers under an agreement with a municipality.
2. Exhibition Stadium Corporation

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

1. St. Clair Parkway Commission

MINISTRY OF TREASURY AND ECONOMICS

1. Ontario Municipal Employees Retirement Board

An Act respecting the Restraint of
Compensation in the Public Sector of
Ontario and the Monitoring of Inflationary
Conditions in the Economy of the Province

1st Reading

September 21st, 1982

2nd Reading

October 19th, 1982

3rd Reading

December 15th, 1982

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to authorize the entering into
of an Agreement with the Government of Canada
with regard to an Anti-Inflation Program**

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics

EXPLANATORY NOTE

The purpose of the Bill is to authorize the Treasurer, on behalf of the Province, to sign an agreement with the Government of Canada, to bring into effect in Ontario a national anti-inflation program if enacted by the Government of Canada. The Bill provides that such an agreement, if signed, would be subject to ratification by the Legislature.

BILL 180

1982

**An Act to authorize the entering into of an
Agreement with the Government of Canada
with regard to an Anti-Inflation Program**

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. The Treasurer of Ontario and Minister of Economics is hereby authorized to sign an agreement with the Government of Canada to provide for the operation of a program of wage and price controls in the Province of Ontario. Agreement authorized

2. Any agreement signed under this Act shall be laid before the Assembly by the Treasurer of Ontario and Minister of Economics forthwith after it is signed if the Assembly is in session, or if it is not, on any of the first ten days of the next ensuing session and the Assembly may, by resolution, ratify the agreement, and where the agreement has been ratified, the agreement shall take effect as of the day on which it was signed. Agreement to be laid before Assembly

3. Where an agreement has been ratified under section 2, in the event of any inconsistency between the provisions of this Act or the agreement and the operation of any other law of the Province of Ontario, the provisions of this Act and the agreement prevail to the extent of the inconsistency whether or not the provisions of this Act or the agreement affect or infringe upon any right, privilege, obligation or liability acquired, accrued, accruing or incurred at the time the agreement was signed. Inconsistent provincial law

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. The short title of this Act is the *Anti-Inflation Agreement Act, 1982*. Short title

An Act to authorize the entering into of an Agreement with the Government of Canada with regard to an Anti-Inflation Program

1st Reading

September 21st, 1982

2nd Reading

3rd Reading

THE HON. F. S. MULLER
Treasurer of Ontario and
Minister of Economics

(Government Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

**An Act for the
Protection of Residential Tenants**

MR. PHILIP

EXPLANATORY NOTES

The Bill makes a number of amendments to the *Landlord and Tenant Act* and the *Residential Tenancies Act*.

Landlord and Tenant Act

Subsections 1 (1) and (3). Subsection 1 (1) of the Bill would require a landlord to pay interest on a tenant's security deposit annually at the current Canada Savings Bond rate (rather than 6 per cent) and clarify the tenant's right to set unpaid interest off against rent. The maximum penalty for a landlord's failure to pay this interest is \$2,000. Subsection (3) contains consequential amendments.

Subsection 1 (2). Subsection 1 (2) of the Bill increases from one week to three weeks the time within which a caretaker who occupies premises in connection with his employment is required to vacate those premises when his employment is terminated. The first week of this period is rent-free.

Residential Tenancies Act

Subsection 2 (1). Subsection 2 (1) of the Bill revises the manner of calculating interest on rent deposits under the Act.

Subsection 2 (2). Subsection 2 (2) of the Bill requires that the Appeal Commissioners under the Act consist of an equal number of representatives of landlords and tenants.

Subsection 2 (3). Subsection 2 (3) empowers the Residential Tenancy Commission to conduct research, on its own initiative or at the request of the Legislature, into matters affecting the interests of landlords and tenants and the supply and cost of rental housing in Ontario.

Subsection 2 (4). Subsection 2 (4) of the Bill contains an amendment to the Act that requires the Commission, when determining the real merits and justice of the case before it, to have regard to the interest of the tenants in residing in residential premises that are maintained in good repair and fit for habitation.

Subsection 2 (5). Clause 103 (3) (a) of the Act states that a Commissioner is not disqualified from holding a hearing and determining a matter by reason only of the fact that the Commissioner attempted to assist the parties to the proceeding in settling the matter by agreement. This provision is repealed.

Subsection 2 (6). The proposed subsection 108 (2) of the Act requires the Commission to give two days notice to the parties before conducting an inspection under section 108 and to give the parties the opportunity to attend on the inspection.

Subsection 2 (7). Subsection 2 (7) would require a landlord, upon the request of a tenant, to file receipts for expenditures made by the landlord with the Residential Tenancy Commission.

Subsection 2 (8). Subsection 2 (8) would authorize the Residential Tenancy Commission to order payment of a tenant's costs where the Commission has determined that the tenant paid rent in excess of the amount permitted by the Act.

Subsection 2 (9). Subsection 2 (9) of the Bill would authorize the Residential Tenancy Commission to conduct an inquiry, on its own motion, to determine whether a tenant has paid an amount of rent in excess of the amount permitted under the Act.

Subsection 2 (10). Subsection 131 (2) of the Act is amended to provide that only 75 per cent of the purchase price of a rental building shall be considered in calculating the landlord's financing costs.

Subsection 2 (11). Subsection 2 (11) of the Bill amends section 131 to provide authority to the Residential Tenancy Commission to order a reduction in the rent charged by a landlord where the landlord's financing costs are reduced as a result of lower interest rates.

A ceiling equal to the Consumer Price Index is imposed on rent increases applied for between October 1, 1982 and October 1, 1983. Higher increases may be awarded where a landlord faces insolvency, and the ceiling does not apply to buildings containing not more than six units if the landlord resides in the building.

Subsection 2 (12). Subsection 2 (12) would require a landlord who obtains vacant possession of a rental unit for the purpose of making repairs or renovations to the unit to apply to the Residential Tenancy Commission for an order determining the rent that may be charged for the repaired or renovated unit.

Subsection 2 (13). Subsection 2 (13) of the Bill amends the exemption provision in Part XI (Rent Review) of the Act in order to eliminate the exemptions for buildings occupied after the 1st of January, 1976, for mobile homes and for rental units whose monthly rental exceeds \$750.

BILL 181

1982

An Act for the Protection of Residential Tenants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 84 (2) of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 84 (2),
re-enacted

(2) A landlord shall pay to the tenant, once each year on the anniversary date of the tenancy agreement, or at the end of the tenancy if this occurs before the anniversary date, interest on the security deposit for rent referred to in subsection (1) at a rate of interest equal to the highest rate established for the most recent series of Canada Savings Bonds issued before the date of the rent deposit interest payment. Interest

(2a) Where a landlord fails to pay the interest referred to in subsection (2), the tenant may set the amount due off against rent payable to the landlord. Right of
set-off

(2b) Any person who contravenes subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Penalty

- (2) Section 115 of the said Act is repealed and the following substituted therefor: s. 115,
re-enacted

115.—(1) Notwithstanding anything in this Part, where a landlord has entered into a tenancy agreement in respect of caretaker's premises, unless otherwise agreed, the tenancy of the tenant is terminated on the day on which the employment of the tenant is terminated and the tenant shall within three weeks thereafter vacate the caretaker's premises. Termination
in respect of
caretaker's
premises

(2) If the tenant fails to vacate the premises as set out in subsection (1), the landlord may forthwith make application under section 113. Application
by landlord
under s. 113

Rent-free
period

(3) A landlord,

- (a) shall not charge or receive any rent or compensation from the tenant in respect of the first week of the three-week period mentioned in subsection (1); and
- (b) may charge rent at the rate payable under the tenancy agreement or, where no rent was payable under the tenancy agreement, at a fair market rate, for the balance of the three-week period mentioned in subsection (1).

s. 122,
re-enacted

- (3) Section 122 of the said Act is repealed and the following substituted therefor:

Penalties

122.—(1) Any person who knowingly contravenes subsection 84 (1) or (3), or section 85, 86, 93, 94, 95, 111, 121, 125, 126 or 127 is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Order for
payment of
security
deposit
R.S.O. 1980,
c. 400

(2) Where a landlord is convicted of the offence of contravening subsection 84 (1) or (3) or section 85, the justice under the *Provincial Offences Act* making the conviction may order the landlord to pay to the tenant the security deposit or any part thereof that is unpaid.

s. 9 (4),
re-enacted

- 2.—(1) Subsection 9 (4) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Interest

(4) A landlord shall pay annually to the tenant interest on the rent deposit at a rate of interest equal to the highest interest rate established for the most recent series of Canada Savings Bonds issued before the date of the rent deposit interest payment.

s. 76,
re-enacted

- (2) Section 76 of the said Act is repealed and the following substituted therefor:

Appeal
Commissioners

76.—(1) The Lieutenant Governor in Council shall appoint as Appeal Commissioners a chairman, one or more vice-chairmen and as many other persons equal in number representative of landlords and tenants as the Lieutenant Governor in Council considers appropriate.

Quorum

(2) The chairman or a vice-chairman, one member representative of landlords and one member representative of tenants constitute a quorum of the Appeal Commissioners.

s. 81a,
enacted

- (3) The said Act is amended by adding thereto the following section:

81a. The Commission may, of its own motion, and shall, when so instructed by the Speaker, conduct research into any matter affecting the interests of landlords and tenants and the supply and cost of rental housing in Ontario and report its findings to the Speaker, who shall lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Research by
Commission

(4) Subsection 93 (2) of the said Act is repealed and the following substituted therefor:

s. 93 (2),
re-enacted

(2) In determining the real merits and justice of the case, the Commission shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and, in doing so,

Commission
to ascertain
substance of
transactions
and activities,
etc.

(a) may disregard the outward form of the transactions or the separate corporate existence of the participants;

(b) may have regard to the pattern of activities relating to the residential complex; and

(c) shall have regard to the interest of the tenants in residing in residential premises that are maintained in good repair and fit for habitation and in compliance with the by-laws of the municipality in which the premises are situated.

(5) Clause 103 (3) (a) of the said Act is repealed.

s. 103 (3) (a),
repealed

(6) Section 108 of the said Act is amended by adding thereto the following subsection:

s. 108,
amended

(2) Where the Commission proposes to conduct an inspection, the Commission shall notify the parties to the hearing at least two days before the inspection is to take place and shall give the parties the opportunity to attend on the inspection.

Notice of
inspection

(7) Section 126 of the said Act is amended by adding thereto the following subsections:

s. 126,
amended

(5) Upon the request of a tenant, a landlord shall include receipts for each expenditure over \$100 in the material filed with the Commission under subsection (4).

Receipts

(6) Where a landlord is required to file receipts with the Commission, the landlord may include expenditures for which the landlord has not filed receipts in his operating costs, financing costs and capital expenditures but the unreceipted expenditures shall not exceed 5 per cent of the total of such costs and capital expenditures.

Where no
receipts for
expenditures

s. 129 (2),
re-enacted

- (8) Subsection 129 (2) of the said Act is repealed and the following substituted therefor:

Remedy

(2) Where, on the application of the tenant, the Commission determines that the tenant has paid an amount of rent that is in excess of that permitted by this Part, the Commission shall declare the rent that may lawfully be charged and shall order that the landlord pay to the tenant,

(a) the amount of the excess rent paid to the landlord; and

(b) the costs incurred by the tenant in bringing the application, including the tenant's loss of wages, if any, for appearing at a hearing, interest on the amount of the excess rent, and any other cost the Commission considers appropriate to be repaid to the tenant.

s. 129,
amended

- (9) Section 129 of the said Act is amended by adding thereto the following subsection:

Inquiry by
Commission

(3) Despite subsection (2), the Commission may, on its own motion, conduct any inquiry it considers necessary to determine whether a tenant has paid an amount of rent that is in excess of that permitted by this Part and where the Commission determines that an excess amount has been paid, the Commission shall order that the landlord pay the excess to the tenant and shall declare the rent that may lawfully be charged.

s. 131 (2),
re-enacted

- (10) Subsection 131 (2) of the said Act is repealed and the following substituted therefor:

Limitation on
consideration
of financing
costs

(2) In reaching its findings concerning financing costs under clause (1) (a), the Commission shall consider increases in financing costs resulting from the landlord's purchase of the residential complex only to the extent necessary to prevent a financial loss by the landlord and shall base its findings concerning financing costs under clause (1) (a) on a principal amount not exceeding 75 per cent of the landlord's acquisition cost.

s. 131,
amended

- (11) Section 131 of the said Act is amended by adding thereto the following subsections:

Reduction
of financing
costs

(2a) Where the Commission determines that all or part of a rent increase is justified by increased financing costs caused by an increase in the prime interest rate, the Commission shall, on its own motion, review the rent increase and financing costs on an annual basis and where the Commission determines in a subsequent year that the financing costs have been reduced as a result of a reduction in the prime interest rate, the Commission shall order a reduction of the rent by an amount that is attributable to the reduced financing costs.

(4a) Where an application is made under subsection 126 (1) during the period from the 1st day of October, 1982 to the last day of September, 1983, inclusive, the total rent increase determined under subsections (1) and (2) shall not exceed the Consumer Price Index.

Ceiling
for twelve
month
period

(4b) Subsection (4a) does not apply to a rental unit in a building containing not more than six rental units if the landlord resides in the building.

Exception

(12) The said Act is further amended by adding thereto the following section:

s. 131a,
enacted

131a.—(1) Where the tenancy of a tenant is terminated on the ground that the landlord requires possession of the rental unit for the purpose of repairs or renovations under section 107 of the *Landlord and Tenant Act* or subsection 52 (1) of this Act, the landlord shall not offer the rental unit for rent until the landlord has applied to the Commission for an order under subsection (2) determining the rent that may be charged for the rental unit.

Application to
Commission

R.S.O. 1980,
c. 232

(2) Where an application is made by a landlord under section 126, the Commission shall determine the amount of rent for each rental unit that is justified by,

Determination
of rent for
renovated
unit

(a) the costs of the repairs or renovations; and

(b) the loss of revenue during the period that the repairs or renovations were carried out.

(3) The rent determined under subsection (2) shall be the rent at which the rental unit is offered,

Unit to be
offered at
established
rent

(a) to a tenant who has a right of first refusal under subsection 107 (3) of the *Landlord and Tenant Act* or subsection 52 (5) of this Act; or

(b) where a tenant does not exercise a right of first refusal, to any other person who wishes to rent the unit.

(13) Clauses 134 (1) (c), (d) and (e) of the said Act are repealed.

s. 134 (1) (c),
(d), (e),
repealed
Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

4. The short title of this Act is the *Protection of Residential Tenants Act, 1982*.

Short title

An Act for the
Protection of Residential Tenants

1st Reading

September 23rd, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Election Act

MR. BREITHAUPT

EXPLANATORY NOTE

The Bill amends the *Election Act* for several purposes. The principal changes to the Act include the following:

1. The "British subject" basis for qualification as a voter or candidate in an election is removed so that all voters and candidates must now be Canadian citizens.
2. The Chief Election Officer is given authority to set standards for convenient access to polling places by persons who are physically handicapped.
3. The Bill provides that so far as is reasonably possible all polling stations should be and all advance polls must be accessible to persons who are physically handicapped.
4. Persons who are physically handicapped are permitted to name voting proxies up to and including the day of election.
5. The political affiliation of candidates will be shown on the ballot.
6. Campaign material is prohibited from being brought into or placed near a polling place on election day.
7. The procedure for establishing the qualifications of a voter whose name has been omitted in error from the polling list is extended to all polling subdivisions rather than simply "rural" subdivisions.
8. The restriction that limits a person to assisting only one blind person in voting is removed.

BILL 182

1982

An Act to amend the Election Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1,
amended

(ga) "International Symbol of Access" means the symbol that is described and illustrated in the Schedule to this Act.

2. Subsection 3 (6) of the said Act is repealed and the following substituted therefor: s. 3 (6),
re-enacted

(6) The Chief Election Officer may make regulations, Regulations

(a) prescribing the forms for use under this Act;

(b) prescribing standards for convenient access to polling stations by persons who are physically handicapped.

- 3.—(1) Clause 10 (1) (b) of the said Act is amended by striking out "or other British subject". s. 10 (1) (b),
amended

- (2) Subsection 10 (2) of the said Act is amended by striking out "or other British subject" in the second and third lines. s. 10 (2),
amended

- 4.—(1) Clause 38 (1) (c) of the said Act is repealed and the following substituted therefor: s. 38 (1) (c),
re-enacted

(c) a person who is physically incapable of attending a polling place; or

.

- (2) Section 38 of the said Act is amended by adding thereto the following subsection: s. 38,
amended

Proxies by
physically
handicapped
persons

(5a) Notwithstanding anything in this section, a person who is physically incapable of attending a polling place may appoint in writing a proxy up to and including polling day, and where the proxy makes a statement on oath before the returning officer or deputy returning officer that the person appointing the proxy is physically incapable of attending a polling place and that the proxy is qualified to act for the person making the appointment, the returning officer or deputy returning officer shall give a certificate across the face of the appointment of the voting proxy to that effect.

s. 38 (7),
re-enacted

(3) Subsection 38 (7) of the said Act is repealed and the following substituted therefor:

Oath on
voting

(7) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy with the certificate thereon as provided in subsections (5) and (5a) at the time of voting and takes the prescribed oath.

s. 39 (b),
amended

5. Clause 39 (b) of the said Act is amended by striking out "or other British subject".

s. 54 (3),
re-enacted

6. Subsection 54 (3) of the said Act is repealed and the following substituted therefor:

Form of
ballot

(3) The ballot shall contain the names of the candidates and their political party affiliations and the names of the candidates shall be arranged on the ballot alphabetically by surname with the surname in bold type, with given names preceding the surnames and with consecutive numbers preceding each candidate's name, and the party affiliation of each candidate shall be indicated below the candidate's name.'

s. 56 (3),
re-enacted

7. Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

Location of
polling
places

(3) A polling place may be situated in a schoolhouse, hall or other public building or on private property and, so far as is reasonably possible, shall conform to the standards for convenient access to polling places by persons who are physically handicapped prescribed by the Chief Election Officer and those polling places that conform to the standards shall be signified by the International Symbol of Access marked clearly on a sign that is posted in a conspicuous location near the polling place.

List of
polling
places

(3a) Upon the request of any voter, the returning officer shall provide to the voter a list of the polling places in the electoral district in which the voter is entitled to vote and all the polling places that conform to the standards for convenient access pre-

scribed by the Chief Election Officer shall be designated on the list with the International Symbol of Access.

- 8.** Subsection 57 (1) of the said Act is amended by inserting after “infirm” in the eighth line “or physically handicapped”. s. 57 (1),
amended

- 9.** The said Act is amended by adding thereto the following section: s. 62a,
enacted

62a. A person who is physically handicapped may vote at any polling place that is designated with or signified by the International Symbol of Access so long as that polling place is within the electoral district in which his name appears on a polling list, and, where the name of the person does not appear on the polling list for the polling place at which he votes, the deputy returning officer or poll clerk shall forthwith notify the deputy returning officer or poll clerk of the polling place at which he is entitled to vote that the person has voted. Handicapped
person voting
at designated
polling place

- 10.** The said Act is further amended by adding thereto the following section: s. 72a,
enacted

72a. No person shall bring into or place near a polling place any campaign material displaying the name of a candidate or otherwise designed to promote the election of a particular candidate and every person permitted to remain in the polling place during the time the poll remains open shall remove and destroy any such material brought into or placed near the polling place that comes to his attention. Campaign
material
prohibition

- 11.** Subsection 73 (4) of the said Act is repealed and the following substituted therefor: s. 73 (4),
re-enacted

(4) The returning officer, in fixing the location of the polling places, shall select public places or premises that conform to the standards for convenient access to polling places by persons who are physically handicapped prescribed by the Chief Election Officer and such polling places shall be signified by the International Symbol of Access marked clearly on a sign that is posted in a conspicuous location near the polling place. Accessibility
to polling
places

- 12.** Subsection 81 (1) of the said Act is amended by striking out “In polling subdivisions declared to be rural polling subdivisions by the Chief Election Officer” in the first and second lines. s. 81 (1),
amended

- 13.—**(1) Subsection 87 (1) of the said Act is repealed and the following substituted therefor: s. 87 (1),
re-enacted

(1) On the application of any voter who by reason of inability to read, blindness or physical handicap, is unable to vote in accordance with the other provisions of this Act, the deputy Voters
requiring
assistance

returning officer shall require the voter making the application to take an oath of his need for assistance in order to vote and shall thereafter assist the voter by marking his ballot in the manner directed by the voter in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

s. 87 (4),
repealed

(2) Subsection 87 (4) of the said Act is repealed.

Act
amended

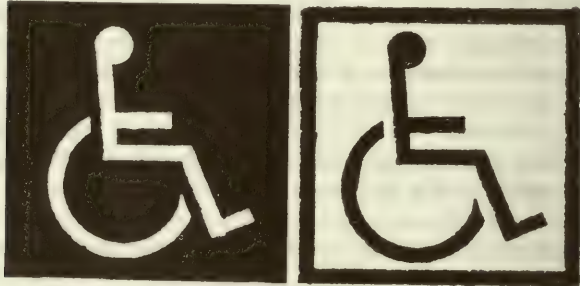
- 14.** The said Act is further amended by adding thereto the following Schedule:

SCHEDULE

1. Description

The symbol of access is composed of two elements—the wheelchair figure and either a square background or square border. The correct colour for the symbol of access is a dark blue or black. This blue or black should be the background colour for a white wheelchair figure when used without a border, or as the colour for the border and wheelchair figure on a white background.

2. Illustration



Commence-
ment

- 15.** This Act comes into force on the day it receives Royal Assent.

Short title

- 16.** The short title of this Act is the *Election Amendment Act, 1982*.

An Act to amend the Election Act

1st Reading

October 7th, 1982

2nd Reading

3rd Reading

MR. BREITHAUPF

(Private Members' Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Judicature Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

The amendment would permit the designation of courts sitting in areas outside of designated counties and districts for the purpose of proceedings in both the English and French languages.

BILL 183

1982

An Act to amend the Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 130 (3) of the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding thereto the following clause:

s. 130 (3),
amended

(c) courts sitting in any designated place,

- (2) Subsection 130 (8) of the said Act is amended by striking out “in a designated county or district” in the second line and inserting in lieu thereof “that is a designated court”.

s. 130 (8),
amended

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Judicature Amendment Act, 1982*.

Commence-
ment

Short title

An Act to amend the
Judicature Act

1st Reading

October 29th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(*Government Bill*)

Bill 183

*(Chapter 3
Statutes of Ontario, 1983)*

An Act to amend the Judicature Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	October 29th, 1982
<i>2nd Reading</i>	January 25th, 1983
<i>3rd Reading</i>	January 25th, 1983
<i>Royal Assent</i>	January 27th, 1983

Bill 183

1982

An Act to amend the Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 130 (3) of the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause “b” and by adding thereto the following clause:

s. 130 (3),
amended

(c) courts sitting in any designated place,

(2) Subsection 130 (8) of the said Act is amended by striking out “in a designated county or district” in the second line and inserting in lieu thereof “that is a designated court”.

s. 130 (8),
amended

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Judicature Amendment Act, 1983*.

Short title

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the Fair Pricing of Products
and Services sold to Consumers in Ontario**

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to require a fair price for every product and service sold to consumers in Ontario. Where a retail seller charges an unfair price, the Bill sets out procedures and remedies for ensuring compliance with the fair pricing requirement. The Bill provides for an appeal of fair pricing orders to The Commercial Registration Appeal Tribunal.

BILL 184 1982

An Act to provide for the Fair Pricing of Products and Services sold to Consumers in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Director" means the Director under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980,
c. 274
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "product" means an item of goods;
- (d) "retail seller" means a person who offers a product or service for sale but not for resale;
- (e) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*.

2. Every retail seller of products and services in Ontario shall offer each product or service for sale at a price that is fair to the consumer having regard to the costs of producing, distributing and marketing the product or service. Fair prices
required

3. Where, upon the complaint of a person or upon his own motion, the Director believes on reasonable and probable grounds that a retail seller is charging or has charged an unfair price for a product or service, the Director may order the retail seller to comply with section 2 in respect of the product or service specified in the order and the Director may, in the order, establish a fair price for the product or service. Order to
cease
charging
unfair
price

Notice of
proposal

4.—(1) Where the Director proposes to make an order under section 3, he shall serve notice of his proposal on each person to be named in the order together with written reasons therefor.

Request for
hearing

(2) A notice under subsection (1) shall inform each person to be named in the order that he is entitled to a hearing by the Tribunal if he mails or delivers within fifteen days after the notice under subsection (1) is served on him notice in writing requiring a hearing to the Director and the Tribunal and he may so require such a hearing.

Failure to
request hearing

(3) Where a person upon whom a notice is served under subsection (1) does not require a hearing by the Tribunal in accordance with subsection (2), the Director may carry out the proposal stated in the notice.

Hearing

(4) Where a person requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or to refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Director.

Conditions

(5) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Director and the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Order for
immediate
compliance

5.—(1) Notwithstanding section 4, the Director may make an order under section 3 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and subject to subsections (3) and (4), the order takes effect immediately.

Notice
of order

(2) Where the Director makes an order under subsection (1), he shall serve each person named in the order with a copy of the order together with written reasons therefor, and a notice containing the information required to be in a notice referred to in subsections 4 (1) and (2).

Hearing

(3) Where a person named in the order requires a hearing by the Tribunal in accordance with the notice under subsection (2), the Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 4.

(4) Where a hearing by the Tribunal is required, the order expires thirty days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the order, the Tribunal may extend the time of expiration until the hearing is concluded. Expiration of order

(5) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

6. Notwithstanding that, under section 11 of the *Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under section 4 or 5, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. Stay
R.S.O. 1980,
c. 274

7.—(1) Any person against whom the Director proposes to make an order to comply with section 2 may enter into a written assurance of voluntary compliance in the prescribed form undertaking to not charge the specified unfair price after the date thereof. Assurance of voluntary compliance

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Act the force and effect of an order made by the Director. Assurance deemed order

8. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. Investigations by order of Minister

R.S.O. 1980,
c. 411

9. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date. Service of notice

10.—(1) Every person who, knowingly,

Offences

(a) furnishes false information in an investigation under this Act;

(b) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act; or

(c) obstructs a person making an investigation under section 8,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(2) Every person who charges an unfair practice price knowing it to be an unfair price is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporation

(3) Where a corporation is convicted of an offence under subsection (1) or (2), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Directors
and
officers

(4) Where a corporation has been convicted of an offence under subsection (1) or (2),

(a) each director of the corporation; and

(b) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

Commence-
ment

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. The short title of this Act is the *Fair Pricing Act, 1982*.

An Act to provide for the
Fair Pricing of Products and Services
sold to Consumers in Ontario

1st Reading

November 2nd, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the Observance of
Remembrance Day**

MR. FOULDS

EXPLANATORY NOTE

The Bill is intended to ensure that Remembrance Day is observed as a general holiday on November 11th.

BILL 185

1982

An Act to provide for the Observance of Remembrance Day

HER MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. Remembrance Day, being the 11th day of November in each year, is a public holiday for the purposes of Part VII of the *Employment Standards Act* and is a school holiday for the purposes of the *Education Act*. Holiday proclaimed
R.S.O. 1980,
cc. 137, 129

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Remembrance Day Act*, Short title
1982.

An Act to provide for the
Observance of Remembrance Day

1st Reading

November 4th, 1982

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Municipal Elections Act

MR. EPP

EXPLANATORY NOTE

The Bill would confine the right to vote in municipal elections to Canadian citizens.

BILL 186

1982

An Act to amend the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 12 (b) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by striking out "or other British subject". s. 12 (b),
amended
2. Clause 13 (b) of the said Act is amended by striking out "or other British subject". s. 13 (b),
amended
3. Section 15 of the said Act is amended by striking out "or other British subject" in the third line. s. 15,
amended
4. Subsection 33 (2) of the said Act is amended by striking out "or other British subject" in the sixth line and in the ninth line. s. 33 (2),
amended
5. This Act comes into force on the day it receives Royal Assent. Commence-
ment
6. The short title of this Act is the *Municipal Elections Amendment Act, 1982*. Short title

An Act to amend the
Municipal Elections Act

1st Reading

November 5th, 1982

2nd Reading

3rd Reading

MR. EPP

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

**An Act to provide for the Readjustment of
Electoral Boundaries**

MR. RENWICK

EXPLANATORY NOTE

The Bill provides a mechanism for the readjustment of Ontario's electoral boundaries upon the completion of each decennial Statistics Canada census. An independent commission would be appointed by the Speaker to determine the number of electoral districts, fix electoral boundaries and report back to the Assembly.

BILL 187 1982

An Act to provide for the Readjustment of Electoral Boundaries

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "commission" means an electoral boundaries readjustment commission appointed under subsection 2 (1). Interpretation

2.—(1) After the completion of each decennial census of the population of Ontario conducted by Statistics Canada, the Speaker of the Assembly shall appoint an electoral boundaries readjustment commission consisting of, Speaker to appoint commission

(a) one person on the recommendation of the leader of each political party that is represented in the Assembly by four or more members and that nominated candidates in at least half the electoral districts in the most recent general election; and

(b) the Chief Election Officer appointed under the *Election Act*. R.S.O. 1980, c. 133

(2) The members of the commission shall elect one of their number to be chairman. Chairman

(3) Members of the commission shall not, during their membership, be members of the Assembly, the Senate or the House of Commons or candidates at an election or hold office in any political party or constituency association or make contributions to any political party or constituency association. Members not to hold office or make political contributions

(4) For the purpose of carrying out its duties under this Act the commission has the powers of a commission under Part II of the *Public Inquiries Act* and that Part applies to the commission's proceedings as if they were an inquiry under that Act. Powers of commission under R.S.O. 1980, c. 411

Remuneration
of members

3.—(1) The members of the commission, except the Chief Election Officer, shall be paid such *per diem* allowances as the Lieutenant Governor in Council determines.

Staff,
etc.

(2) The commission may employ such staff, lease such premises and acquire such equipment and supplies as are necessary to allow it to perform its duties under this Act.

Duties of
commission

4.—(1) The commission shall determine the population of Ontario as accurately as possible, based on the most recent figures available from Statistics Canada, shall determine the number of electoral districts into which Ontario is to be divided and shall fix their boundaries.

Number of
electoral
districts

(2) The number of electoral districts shall not be reduced and shall not be increased by a factor that exceeds the factor by which the population of Ontario, as determined by the commission, has increased since the last preceding decennial census.

Northern
electoral
districts

(3) The total number of electoral districts in the part of Ontario lying north and west of the southern boundaries of the present electoral districts of Algoma-Manitoulin, Sudbury East and Nipissing shall not be less than 15.

Relevant
circumstances

(4) In determining the number of electoral districts into which Ontario is to be divided and fixing their boundaries, the commission shall consider all the relevant circumstances, including,

- (a) communications and transportation networks;
- (b) existing municipal boundaries;
- (c) the existing and traditional boundaries of electoral districts;
- (d) the special needs of rural and thinly populated areas with respect to representation;
- (e) population trends; and
- (f) special topographical and geographical features.

Population
of electoral
districts

(5) No electoral district shall have a population that varies from the average population of electoral districts by more than 15 per cent, unless the commission considers that special circumstances of the kind enumerated in subsection (4) exist that justify a greater variation.

Draft map

5.—(1) Before submitting its report under subsection 6 (1), the commission shall prepare a map showing the boundaries of each proposed electoral district.

(2) The commission shall publish the map or appropriate parts of the map in newspapers of general circulation in the proposed electoral districts together with a notice setting out when and in what manner objections, comments and suggestions relating to the boundaries of the proposed electoral districts may be made. Publication

(3) The commission may, if the members consider it advisable, hold public meetings for discussion of the boundaries of proposed electoral districts. Public meetings

6.—(1) The commission shall, not more than eighteen months after its appointment, submit to the Speaker a report setting out its findings and conclusions under subsection 4 (1). Report to Speaker

(2) The Speaker shall cause the report to be laid before the Assembly if it is in session, or, if not, at the next ensuing session. Tabling

7.—(1) Where an objection to a specified provision of the report, with reasons therefor, is signed by ten or more members of the Assembly and filed with the Clerk of the House within fifteen days from the day the report is laid before the Assembly, the Assembly shall consider the matter within fifteen days from the day the objection is filed. Objection by members

(2) Where an objection is filed under subsection (1) and the Assembly has considered the matter, the Speaker shall refer the report back to the commission, together with a copy of the objection and a copy of the Debates of the Assembly relating to the matter, and the commission shall promptly consider and deal with the objections and submit a final report to the Speaker. Reference back to commission

(3) The Speaker shall cause the final report to be laid before the Assembly if it is in session, or, if not, at the next ensuing session. Tabling of final report

8.—(1) Where no motion is filed with the Speaker under subsection 7 (1), or where a final report has been laid before the Assembly under subsection 7 (3), the commission shall prepare a draft bill to revise the *Representation Act* in accordance with its report or final report, and shall submit the draft bill to the Speaker, who shall transmit it to the Minister of Intergovernmental Affairs, or such other member of the Executive Council as may be designated by the Lieutenant Governor in Council, for introduction in the Assembly. Draft bill

R.S.O. 1980,
c. 450

(2) The commission is dissolved when the draft bill is submitted to the Speaker under subsection (1). Commission dissolved

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Electoral Boundaries Readjustment Act, 1982*.

An Act to provide for the
Readjustment of Electoral Boundaries

1st Reading

November 23rd, 1982

2nd Reading

3rd Reading

MR. RENWICK

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Assessment Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

The purpose of the Bill is,

- (a) to permit the Lieutenant Governor in Council to prescribe new pipe line rates by regulation where an equalization of assessment under subsection 63 (3) is performed;
- (b) to provide for the return of assessment rolls for municipal taxation at present levels of assessment except where reassessment has been introduced by proclamation at full market value or by equalization of assessment based on market value within the municipality; and
- (c) to clarify certain provisions of the Act.

SECTION 1. This section corrects certain references. Paragraph 10 of subsection 13 (1) which is to be clarified now reads as follows:

- 10. Assessment for real property mentioned in subclauses 1 (1) (c) (i) and (iii) of the Ontario Unconditional Grants Act.*

The section also repeals a paragraph no longer required for the administration of the Act. Paragraph 16 of the said subsection 13 (1) to be repealed now reads as follows:

- 16. Corporations assessment, by inserting the letter "C" where applicable.*

SECTION 2.—Subsection 1. This subsection provides a rate for gas transmission pipe line with an outside diameter of 42 inches. Subsection 24 (4) of the Act now reads as follows:

- (4) Notwithstanding any other provisions of this Act, but subject to subsection (6), a pipe line shall be assessed for taxation purposes at the following rates:

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1"	Nominal Inside Diameter	\$ 1.20
1 1/4" to 1 1/2"	" " "	1.45
2" and 2 1/2"	" " "	1.70
3"	" " "	2.20
4" and 4 1/2"	" " "	2.70
5" and 5 5/8"	" " "	3.20
6" and 6 5/8"	" " "	3.70
8"	" " "	5.90
10"	" " "	6.80
12"	" " "	8.55
14"	Outside Diameter	9.20
16"	" "	10.35
18"	" "	11.45
20"	" "	12.45
22"	" "	13.75
24"	" "	14.80
26"	" "	15.70
28"	" "	16.75
30"	" "	17.70
32"	" "	18.65
34"	" "	19.50
36"	" "	20.35
38"	" "	21.35

FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1"	Nominal Inside Diameter	\$.90
1 1/4" to 1 1/2"	" " "	1.09
2" and 2 1/2"	" " "	1.31
3"	" " "	1.69
4" and 4 1/2"	" " "	2.10
5" and 5 5/8"	" " "	2.47
6" and 6 5/8"	" " "	2.89
8"	" " "	4.65
10"	" " "	5.44
12"	" " "	6.90

GAS TRANSMISSION PIPE LINE

¾" to 1"	Nominal Inside Diameter	\$ 1.20
1¼" to 1½"	" " "	1.45
2" and 2½"	" " "	1.75
3"	" " "	2.25
4" and 4½"	" " "	2.80
5" and 5⅝"	" " "	3.30
6" and 6⅝"	" " "	3.85
8"	" " "	6.20
10"	" " "	7.25
12"	" " "	9.20
14"	Outside Diameter	10.00
16"	" " "	11.40
18"	" " "	12.75
20"	" " "	14.00
22"	" " "	15.65
24"	" " "	17.00
26"	" " "	18.25
28"	" " "	19.70
30"	" " "	21.10
32"	" " "	22.50
34"	" " "	23.80
36"	" " "	25.15
38"	" " "	26.70

Subsection 2. This subsection permits the Minister to prescribe new pipe line rates by regulation where an equalization of assessment under subsection 63 (3) is performed.

SECTION 3. This section clarifies the Act by confirming that only that real property owned by a public utility commission that is used in operating the utility will be subject to current rates on business assessment. Subsection 26 (4) now reads as follows:

- (4) *The commission shall also pay the amount that the current rates on business assessment on the lands or buildings referred to in subsection (3), not including any lands or buildings referred to in subsection (5), would produce based on the applicable percentage of the assessed value provided for in subsection (3).*

SECTION 4. This section provides for the return of assessment rolls for municipal taxation at present levels of assessment except where a reassessment is introduced by proclamation at full market value or by equalization of assessment based on market value.

Subsection 63 (1) now reads as follows:

- (1) *Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act,*
 - (a) *the assessment roll of a municipality to be returned in the year 1974 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1970 for taxation in the year 1971 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1974;*

- (b) *the assessment roll of a municipality to be returned in the year 1975 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1974 for taxation in the year 1975 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1975;*
- (c) *the assessment roll of a municipality to be returned in the year 1976 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1975 for taxation in the year 1976 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1976;*
- (d) *subject to subsection (2), the assessment roll of a municipality to be returned in the year 1977 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1976 for taxation in the year 1977 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1977;*
- (e) *subject to subsection (2), the assessment roll of a municipality to be returned in the year 1978 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1977 for taxation in the year 1978 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1978;*
- (f) *subject to subsection (2), the assessment roll of a municipality to be returned in the year 1979 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1978 for taxation in the year 1979 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1980 is returned;*
- (g) *subject to subsection (2), the assessment roll of a municipality to be returned in the year 1980 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1979 for taxation in the year 1980 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1981 is returned; and*
- (h) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1981 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1980 for taxation in the year 1981 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1982 is returned,*

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1981 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

SECTION 5. This section provides that, where a municipality has adopted an equalization of assessment under subsection 63 (3), the consistency of classification of real property will be maintained on pending appeals.

SECTION 6. This section relates to the change in section 4 of the Bill; the change is consequent upon the amendment in section 4. Section 68 now reads as follows:

68. *Section 65 ceases to be in force on the 21st day of December, 1982, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1982.*

SECTION 7. This section relates to the change in section 4 and provides that the provisions of the Act with respect to depreciation of pipe lines will come into effect on January 1st, 1983. Section 69 now reads as follows:

69. *Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1982.*

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 10 of subsection 13 (1) of the *Assessment Act*, s. 13 (1),
being chapter 31 of the Revised Statutes of Ontario, 1980, is par. 10,
amended by striking out “subclauses 1 (1) (c) (i) and (iii)” in amended
the first and second lines and inserting in lieu thereof “sub-
clauses 1 (1) (b) (i) and (iii)”.

(2) Paragraph 16 of subsection 13 (1) of the said Act is repealed. s. 13 (1),
par. 16,
repealed

2.—(1) Subsection 24 (4) of the said Act is amended by adding at the s. 24 (4),
end of that portion of the Table of Rates set out therein amended
headed “Gas Transmission Pipe Line” the following:

42" " 29.50

(2) Section 24 of the said Act is amended by adding thereto the s. 24,
following subsection: amended

(16a) Notwithstanding any provisions of this section to the Idem
contrary, where a reassessment of all property within a municipi-
ality or in territory without municipal organization is made
under subsection 63 (3), the Minister may by regulation,

(a) prescribe rates in lieu of the rates in subsection (4) to be
applied for the taxation of pipe lines; and

(b) where two or more pipe lines occupy the same right of
way, designate the second and subsequent pipe lines
and prescribe the percentage of the rates as so pre-
scribed at which the second and subsequent pipe lines
are assessable and taxable,

and the rates and percentages of rates as so prescribed shall apply
in the year in which taxation is first levied on the basis of the new
values resulting from such a reassessment and in each year there-
after.

s. 26 (4),
amended

3. Subsection 26 (4) of the said Act is amended by inserting after "subsection (3)" in the third line "and used by the commission in the operating of a public utility".

s. 63 (1),
amended

4. Subsection 63 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, is amended,

- (a) by striking out "and" at the end of clause (g);
- (b) by adding "and" at the end of clause (h); and
- (c) by striking out all that part of the subsection immediately following clause (h) and inserting in lieu thereof:

- (i) subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1982 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1981 for taxation in the year 1982 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1983 is returned,

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1982 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

s. 65,
amended

5. Section 65 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 14 and 1982, chapter 40, section 3, is further amended by adding thereto the following subsection:

Where
property
described
in class
prescribed
under
s. 63 (3)

(1a) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed in a municipality under subsection 63 (3), for the purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection 63 (3) for the municipality is not similar to real property described in another class prescribed under subsection 63 (3) for that municipality, and the inclusion of real property within a class so prescribed does not indicate that such property is similar to other real property in that class.

6. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, s. 68, re-enacted 1981, chapter 47, section 15, is repealed and the following substituted therefor:

68. Section 65 ceases to be in force on the 20th day of Application December, 1983, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1983.

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, s. 69, re-enacted 1981, chapter 47, section 16, is repealed and the following substituted therefor:

69. Subject to section 70, subsection 24 (6) is not in force and Application remains inoperative until the 1st day of January, 1983.

8. This Act shall be deemed to have come into force on the 1st day of Commence- December, 1982, and section 5 shall apply to every complaint, ment appeal, action or other proceeding in respect of an assessment under this Act where such complaint, appeal, action or other proceeding is,

(a) pending before any court or tribunal on the 1st day of December, 1982;

(b) capable of being appealed to any court or tribunal on the 1st day of December, 1982; or

(c) commenced on or after the 1st day of December, 1982.

9. The short title of this Act is the *Assessment Amendment Act, 1982*. Short title

An Act to amend the Assessment Act

1st Reading

November 26th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 188

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Assessment Act

THE HON. G. L. ASHE
Minister of Revenue

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 10 of subsection 13 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is amended by striking out “subclauses 1 (1) (c) (i) and (iii)” in the first and second lines and inserting in lieu thereof “subclauses 1 (1) (b) (i) and (iii)”. s. 13 (1),
par. 10,
amended

(2) Paragraph 16 of subsection 13 (1) of the said Act is repealed. s. 13 (1),
par. 16,
repealed

2.—(1) Subsection 24 (4) of the said Act is amended by adding at the end of that portion of the Table of Rates set out therein headed “Gas Transmission Pipe Line” the following: s. 24 (4),
amended

42" " " 29.50

(2) Section 24 of the said Act is amended by adding thereto the following subsection: s. 24,
amended

(16a) Notwithstanding any provisions of this section to the contrary, where a reassessment of all property within a municipality or in territory without municipal organization is made under subsection 63 (3), the Minister may by regulation, Idem

(a) prescribe rates in lieu of the rates in subsection (4) to be applied for the taxation of pipe lines; and

(b) where two or more pipe lines occupy the same right of way, designate the second and subsequent pipe lines and prescribe the percentage of the rates as so prescribed at which the second and subsequent pipe lines are assessable and taxable,

and the rates and percentages of rates as so prescribed shall apply in the year in which taxation is first levied on the basis of the new values resulting from such a reassessment and in each year thereafter.

s. 26 (4),
amended

3. Subsection 26 (4) of the said Act is amended by inserting after "subsection (3)" in the third line "and used by the commission in the operating of a public utility".

s. 63 (1),
amended

4. Subsection 63 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, is amended,

(a) by striking out "and" at the end of clause (g);

(b) by adding "and" at the end of clause (h); and

(c) by striking out all that part of the subsection immediately following clause (h) and inserting in lieu thereof:

- (i) subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1982 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1981 for taxation in the year 1982 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1983 is returned,

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1982 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

s. 65,
amended

5. Section 65 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 14 and 1982, chapter 40, section 3, is further amended by adding thereto the following subsection:

Where
property
described
in class
prescribed
under
s. 63 (3)

(1a) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed in a municipality under subsection 63 (3), for the purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection 63 (3) for the municipality is not similar to real property described in another class prescribed under subsection 63 (3) for that municipality, and the inclusion of real property within a class so prescribed does not indicate that such property is similar to other real property in that class.

6. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 15, is repealed and the following substituted therefor: ^{s. 68, re-enacted}

68. Section 65 ceases to be in force on the 20th day of December, 1983, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1983. ^{Application}

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 16, is repealed and the following substituted therefor: ^{s. 69, re-enacted}

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1983. ^{Application}

8. This Act shall be deemed to have come into force on the 1st day of December, 1982, and section 5 shall apply to every complaint, appeal, action or other proceeding in respect of an assessment under this Act where such complaint, appeal, action or other proceeding is, ^{Commencement}

(a) pending before any court or tribunal on the 1st day of December, 1982;

(b) capable of being appealed to any court or tribunal on the 1st day of December, 1982; or

(c) commenced on or after the 1st day of December, 1982.

9. The short title of this Act is the *Assessment Amendment Act, 1982*. ^{Short title}

An Act to amend the Assessment Act

1st Reading

November 26th, 1982

2nd Reading

December 16th, 1982

3rd Reading

December 21st, 1982

THE HON. G. L. ASHE
Minister of Revenue

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Vital Statistics Act

MR. CASSIDY

EXPLANATORY NOTE

The amendment would permit a child of a woman who is separated from her husband to be given the woman's surname if the husband is not the father of the child. The existing section 6 of the *Vital Statistics Act* permits a child born in these circumstances to be named after the husband or the father, or to be given a hyphenated name using the surnames of the husband and the mother or of the father and the mother. The child of an unmarried woman, however, may be given the surname of the mother under the existing law.

BILL 189

1982

An Act to amend the Vital Statistics Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 (4) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980 is repealed and the following substituted therefor: s. 6 (4),
re-enacted

(4) Except as provided in subsections (5) and (6), the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars of the husband shall be given as those of the father of the child. Birth of
child to
married
woman

2. Section 6 of the said Act is amended by adding thereto the following subsection: s. 6,
amended

(5a) Where a married woman to whom a child is born files with the division registrar a statutory declaration in the prescribed form, Idem

(a) that when the child was conceived she was living separate and apart from her husband; and

(b) that her husband is not the father of the child,

and where no request from the mother and the father of the child has been filed in accordance with subsection (5), the birth of the child may be registered showing the surname of the mother as the surname of the child, and no particulars of the father shall be given.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Vital Statistics Amendment Act*, Short title
1982.

An Act to amend the Vital Statistics Act

1st Reading

November 26th, 1982

2nd Reading

3rd Reading

MR. CASSIDY

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the Regional Municipality of
Ottawa-Carleton Act**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTES

The principal purposes of the Bill may be summarized as follows:

1. The Regional Council will be authorized to establish a board of management that is a body corporate to construct, maintain, operate and manage the regional convention centre. At present, the board of management is not a body corporate.
2. The powers of the Regional Council with respect to the board of management and the powers of the board of management are clarified.
3. The Regional Council's powers with respect to the definition of areas receiving a benefit from the regional convention centre are extended to include the powers set out in the proposed clauses 182 (7) (c), (d) and (e).
4. The powers of the Regional Council with respect to the levying of special rates on a benefit area are extended.

The Bill also contains provisions related to the composition and term of office of members of the board of management and the dissolution of the board of management. Clauses 182 (1) (a) and (b) and subsections (2), (9), (10), (11), (12) and (13) of the present section 182 are re-enacted as clauses 182 (1) (a) and (d), and subsections (2), (9), (10), (11) and (12), respectively.

BILL 190

1982

An Act to amend the Regional Municipality of Ottawa-Carleton Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 182 of the *Regional Municipality of Ottawa-Carleton Act*,^{s. 182, re-enacted} being chapter 439 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 26, section 14, is repealed and the following substituted therefor:

182.—(1) In this section,

Inter-
pretation

- (a) “benefit area” means a regional convention centre benefit area established under subsection (7);
- (b) “board of management” means a board of management established under subsection (3);
- (c) “rateable property” includes business and other assessment made under the *Assessment Act*; and
- (d) “regional convention centre” means the lands, structures and facilities, including auditoriums, eating establishments and parking garages, designated by the Regional Council under subsection (2).

R.S.O. 1980,
c. 31

(2) The Regional Council may designate and establish a regional convention centre and for such purpose the Regional Corporation may,

Regional
convention
centre

- (a) acquire, lease and use land;
- (b) erect, maintain and operate structures and facilities;
and
- (c) borrow money by the issue of debentures.

Board of
management

(3) The Regional Council may by by-law establish a board of management for the regional convention centre and the Regional Council may by by-law,

- (a) provide for the name of the board of management;
- (b) entrust to the board of management all the powers, rights, authorities and privileges conferred and duties imposed on the Regional Corporation under this or any other Act with respect to the construction, maintenance, operation and management of the regional convention centre, subject to such limitations as may be set out in the by-law;
- (c) provide for the preparation, delivery and publication by the board of management of such annual reports, financial statements, budgets, capital forecasts, estimates and other reports and statements and the utilization of surplus moneys upon such terms and conditions as the by-law may prescribe; and
- (d) authorize the board of management to make arrangements for temporary borrowings to such total amount and subject to such terms and conditions as the by-law may prescribe.

Body
corporate

(4) The board of management is a body corporate and shall consist of such number of members as are appointed thereto by the Regional Council.

Term of
office

(5) Members of the board of management shall hold office at the pleasure of the Regional Council and,

- (a) unless sooner removed, shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed and are eligible for reappointment; and
- (b) where a member of the board of management resigns or is removed from office before the expiration of his term, the Regional Council may appoint another eligible person for the unexpired portion of his term.

Qualifi-
cations

R.S.O. 1980,
c. 308

(6) No person shall be appointed a member of the board of management unless at the time of appointment the person is qualified to be an elector as defined in the *Municipal Elections Act* in an area municipality.

Benefit
area

(7) With the approval of the Municipal Board, the Regional Council may by by-law,

- (a) define one or more parts of the Regional Area as a regional convention centre benefit area that in the opinion of the Regional Council derives a special benefit from the construction and operation of the regional convention centre;
- (b) from time to time alter any benefit area when, in the opinion of the Regional Council, a part or parts of the Regional Area not included in the benefit area derive a special benefit from the construction and operation of the regional convention centre or when, in the opinion of the Regional Council, a part or parts of the benefit area no longer derive a special benefit;
- (c) exempt from benefit area the whole or any portion of any property situate within the benefit area;
- (d) describe a benefit area and the rateable properties therein in such manner as the Regional Council may determine; and
- (e) establish such formulas as are, in the opinion of the Regional Council, just and equitable, to serve as a basis for the levy of the rates under subsection (8).

(8) The Regional Council may by by-law establish in each ^{Levy} year a rate or rates to be levied against the rateable properties in a benefit area sufficient to,

- (a) pay all or a part of any capital debt payable in such year;
- (b) meet all or a part of any operating deficit that is anticipated to arise during the year from the operations of the regional convention centre;
- (c) meet all or a part of any expenditures that occurred in one or more prior years, including expenditures made during any period that the regional convention centre was under construction or repair or was for any reason not open for business; and
- (d) meet all or a part of any expenditures made in one or more prior years by the Regional Corporation, or a local board thereof, that are related to the planning, design, promotion, construction, maintenance, repair or operation of the regional convention centre,

and any such by-law shall make due provision for any surplus or deficit arising out of the operations of the regional convention

centre in the preceding year after taking into account the levies made under this section and all applicable subsidies.

Apportion-
ment

(9) The amount chargeable to lands in a benefit area shall be equitably apportioned among all the parcels in accordance with the benefits accruing to a parcel from the establishment and operation of the regional convention centre or in the proportion that the assessment of each parcel bears to the total assessment of the parcels in the benefit area.

Collection
of rates

(10) Where the Regional Council passes a by-law under subsection (8), the Regional Council may direct the treasurer of the area municipality in which are situate the lands benefitted to add the amounts to the collector's roll and to collect the amounts in the same manner as municipal taxes, and any moneys collected pursuant to this subsection shall be paid over to the treasurer of the Regional Corporation.

Management
agreements

(11) The Regional Corporation and an area municipality may enter into one or more agreements for the management of the regional convention centre upon such terms and conditions as may be agreed upon, including provisions whereby any deficit arising from the operation of the regional convention centre or the repayment of debt in respect thereof shall be the responsibility of the area municipality and, where such an agreement is in effect, the provisions of this section apply with necessary modifications to the council of the area municipality.

Exemption
from
taxation

(12) The lands, buildings and structures included within a regional convention centre designated under subsection (2), including the auditoriums, eating establishments and parking garages on such lands, shall be exempt from taxation for municipal and school purposes and from charges for local improvements to the extent that they are occupied for the purposes of a regional convention centre by the Regional Corporation or a board of management established under subsection (3) or by an area municipality pursuant to an agreement under subsection (11).

Dissolution

(13) Upon the repeal of a by-law establishing a board of management under subsection (3), the board of management ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the Regional Corporation.

Transition
R.S.O. 1980,
c. 439

2.—(1) The board of management established under section 182 of the *Regional Municipality of Ottawa-Carleton Act*, as that section read on the 1st day of November, 1982, is hereby continued until the earliest of,

(a) the day a by-law dissolving the board of management comes into force;

(b) the day a by-law passed under subsection 182 (3) of the said Act, as re-enacted by section 1 of this Act, comes into force; or

(c) the 1st day of July, 1983.

(2) Section 182 of the said Act, as it read on the 1st day of November, 1982, applies to the board of management continued by subsection (1). Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Amendment Act, 1982*. Short title

An Act to amend the Regional Municipality
of Ottawa-Carleton Act

1st Reading

November 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the continuation of the Provisional
County of Haliburton as the County of Haliburton**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTE

The purpose of the Bill is to continue The Corporation of the Provisional County of Haliburton as a municipal corporation with the status of a county municipality and bearing the name of The Corporation of the County of Haliburton. For judicial purposes, the County of Haliburton will continue to form part of the County of Victoria.

The Bill also annexes the geographic townships of Lawrence and Nightingale to the County of Haliburton and unites them with the township municipality known as the United Townships of Sherborne, McClintock and Livingstone to form the Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale. The *Provincial Parks Act* will continue to apply to those parts of the new municipality that are located within Algonquin Provincial Park.

The Bill provides for complementary amendments to the *Territorial Division Act*.

BILL 191

1982

An Act to provide for the continuation of the Provisional County of Haliburton as the County of Haliburton

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Corporation of the Provisional County of Haliburton is hereby continued as a municipal corporation with the status of a county municipality and bearing the name of The Corporation of the County of Haliburton. County of Haliburton

2. A reference to The Corporation of the Provisional County of Haliburton or the Provisional County of Haliburton in any Act, regulation, by-law, agreement or other document passed, made, entered into or executed before this Act comes into force shall be deemed to be a reference to The Corporation of the County of Haliburton and the County of Haliburton, respectively. References in other Acts, etc.

- 3.—(1) The geographic townships of Lawrence and Nightingale are hereby annexed to the County of Haliburton and the said geographic townships together with the township municipality known as the United Townships of Sherborne, McClintock and Livingstone are hereby established as a township municipality bearing the name of The Corporation of the Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale. Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale established

- (2) Notwithstanding subsection (1), for municipal purposes, any part of the Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Provincial Park, so long as the part remains part of the Park, shall be deemed to be separated from the Township and from the County of Haliburton, but the parts of the Township located in the Park, Lands in Algonquin Provincial Park
 - (a) form part of the County of Haliburton for judicial purposes; and

R.S.O. 1980,
c. 402

(b) form part of the Township for the purposes of the *Provincial Parks Municipal Tax Assistance Act*.

Existing
by-laws

- (3) The establishment of the Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale, herein referred to as the new municipality, does not affect the by-laws in force in the United Townships of Sherborne, McClintock and Livingstone immediately prior to the coming into force of this Act and they remain in force until repealed by the council of the new municipality.

Council

- (4) Until the regular election to be held in 1985, the council elected at the regular election in 1982 for the United Townships of Sherborne, McClintock and Livingstone shall be the council for the new municipality.

Assets,
etc.

- (5) All the assets and liabilities of the United Townships of Sherborne, McClintock and Livingstone, herein referred to as the former municipality, and its local boards are assets and liabilities of the new municipality and its local boards, and the new municipality and its local boards for all purposes stand in the place and stead of the former municipality and its local boards.

Idem

- (6) Without limiting the generality of subsection (5), the new municipality has the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the former municipality, including those for 1982, as if such taxes had been imposed by the new municipality.

R.S.O. 1980,
c. 497, s. 1,
amended

- 4.—(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, is amended by inserting after "5" in the third line "5a".

s. 1,
amended

- (2) The said section 1 is further amended by adding thereto the following paragraph:

Haliburton

12a.—THE COUNTY OF HALIBURTON

consists of the townships of,

Anson, Hindon and	Lutterworth,
Minden,	Monmouth,
Bicroft,	Sherborne,
Cardiff,	McClintock,
Dysart, Bruton,	Livingstone,
Clyde, Dudley,	Lawrence and
Eyre, Guilford,	Nightingale,
Harburn, Harcourt	Snowdon,
and Havelock,	Stanhope.
Glamorgan,	

(3) Paragraph 41 of the said section 1 is repealed.

s. 1, par. 41,
repealed

(4) The said Act is amended by adding thereto the following section:

s. 5a,
enacted

5a. For judicial purposes, the County of Haliburton is united to and forms part of the County of Victoria.

County of
Haliburton

5. The *Haliburton Act*, being chapter 194 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

6. This Act comes into force on the 1st day of January, 1983.

Commence-
ment

7. The short title of this Act is the *County of Haliburton Act, 1982*.

Short title

An Act to provide for the continuation of
the Provisional County of Haliburton as the
County of Haliburton

1st Reading

November 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(*Government Bill*)

BILL 191

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to provide for the continuation of the Provisional County of Haliburton as the County of Haliburton

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

BILL 191

1982

An Act to provide for the continuation of the Provisional County of Haliburton as the County of Haliburton

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Corporation of the Provisional County of Haliburton is hereby continued as a municipal corporation with the status of a county municipality and bearing the name of The Corporation of the County of Haliburton. County of Haliburton

2. A reference to The Corporation of the Provisional County of Haliburton or the Provisional County of Haliburton in any Act, regulation, by-law, agreement or other document passed, made, entered into or executed before this Act comes into force shall be deemed to be a reference to The Corporation of the County of Haliburton and the County of Haliburton, respectively. References in other Acts, etc.

- 3.—(1) The geographic townships of Lawrence and Nightingale are hereby annexed to the County of Haliburton and the said geographic townships together with the township municipality known as the United Townships of Sherborne, McClintock and Livingstone are hereby established as a township municipality bearing the name of The Corporation of the Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale. Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale established

- (2) Notwithstanding subsection (1), for municipal purposes, any part of the Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Provincial Park, so long as the part remains part of the Park, shall be deemed to be separated from the Township and from the County of Haliburton, but the parts of the Township located in the Park, Lands in Algonquin Provincial Park
 - (a) form part of the County of Haliburton for judicial purposes; and

R.S.O. 1980,
c. 402

(b) form part of the Township for the purposes of the *Provincial Parks Municipal Tax Assistance Act*.

Existing
by-laws

- (3) The establishment of the Township of Sherborne, McClintock, Livingstone, Lawrence and Nightingale, herein referred to as the new municipality, does not affect the by-laws in force in the United Townships of Sherborne, McClintock and Livingstone immediately prior to the coming into force of this Act and they remain in force until repealed by the council of the new municipality.

Council

- (4) Until the regular election to be held in 1985, the council elected at the regular election in 1982 for the United Townships of Sherborne, McClintock and Livingstone shall be the council for the new municipality.

Assets,
etc.

- (5) All the assets and liabilities of the United Townships of Sherborne, McClintock and Livingstone, herein referred to as the former municipality, and its local boards are assets and liabilities of the new municipality and its local boards, and the new municipality and its local boards for all purposes stand in the place and stead of the former municipality and its local boards.

Idem

- (6) Without limiting the generality of subsection (5), the new municipality has the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the former municipality, including those for 1982, as if such taxes had been imposed by the new municipality.

R.S.O. 1980,
c. 497, s. 1,
amended

- 4.—(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, is amended by inserting after "5" in the third line "5a".

s. 1,
amended

- (2) The said section 1 is further amended by adding thereto the following paragraph:

Haliburton

12a.—THE COUNTY OF HALIBURTON

consists of the townships of,

Anson, Hindon and	Lutterworth,
Minden,	Monmouth,
Bicroft,	Sherborne,
Cardiff,	McClintock,
Dysart, Bruton,	Livingstone,
Clyde, Dudley,	Lawrence and
Eyre, Guilford,	Nightingale,
Harburn, Harcourt	Snowdon,
and Havelock,	Stanhope.
Glamorgan,	

(3) Paragraph 41 of the said section 1 is repealed. s. 1, par. 41,
repealed

(4) The said Act is amended by adding thereto the following s. 5a,
enacted
section:

5a. For judicial purposes, the County of Haliburton is united County of
Haliburton
to and forms part of the County of Victoria.

5. The *Haliburton Act*, being chapter 194 of the Revised Statutes of Repeal
Ontario, 1980, is repealed.

6. This Act comes into force on the 1st day of January, 1983. Commence-
ment

7. The short title of this Act is the *County of Haliburton Act, 1982*. Short title

An Act to provide for the continuation of
the Provisional County of Haliburton as the
County of Haliburton

1st Reading

November 29th, 1982

2nd Reading

December 16th, 1982

3rd Reading

December 21st, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the Regional Municipality of
Hamilton-Wentworth Act**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The proposed amendments to section 134 authorize the Regional Council to exempt a shop, upon the application of the occupier of the shop, from the store closing by-laws in force in the Regional Municipality for up to two periods of two consecutive days in any year.

SECTION 2. Under the proposed section 161 of the Act, the Regional Corporation will be authorized to assume the liability of the City of Hamilton in respect of certain debentures issued by the Regional Corporation on behalf of the City in relation to the Hamilton Art Gallery.

An Act to amend the Regional Municipality of Hamilton-Wentworth Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 134 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

s. 134,
amended

(4) Upon the application of the occupier of a shop in the Regional Area, the Regional Council may by by-law exempt the shop from any provision or provisions of a by-law passed under section 211 of the *Municipal Act* on any such particular day or days of the year as the by-law specifies, but no shop shall be exempted under this subsection from the provisions of a by-law passed under the said section 211 in more than two periods in any year.

Exemption

R.S.O. 1980,
c. 302

(5) In subsection (4), "period" means a period not exceeding two consecutive days in duration.

Interpretation

2. The said Act is amended by adding thereto the following section:

s. 161,
enacted

161.—(1) The Regional Council may by by-law assume, without Municipal Board approval, the liability of the City of Hamilton to retire the outstanding indebtedness of the City on the debentures issued by the Regional Corporation on behalf of the City for the Hamilton Art Gallery.

Assumption
of liability
re Art Gallery
debenture

(2) The Regional Council may by by-law pay to the City of Hamilton an amount equal to the sum paid by the City for the purpose of retiring the indebtedness referred to in subsection (1) in 1980, 1981 and 1982.

Idem

(3) Nothing in subsection (1) affects the rights of any debenture holder or the obligations of the City of Hamilton in relation to the debentures issued under subsection (1).

Rights and
obligations
affected

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Regional Municipality of Hamilton-Wentworth Amendment Act, 1982*.

An Act to amend the Regional Municipality
of Hamilton-Wentworth Act

1st Reading

November 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

Bill 192

An Act to amend the Regional Municipality of Hamilton-Wentworth Act

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading November 29th, 1982

2nd Reading February 14th, 1983

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

Section 1. The proposed amendments to section 134 authorize the Regional Council to exempt a shop, upon the application of the occupier of the shop, from the store closing by-laws in force in the Regional Municipality for up to two periods of two consecutive days in any year.

Section 2. Under the proposed section 161 of the Act, the Regional Corporation will be authorized to assume the liability of the City of Hamilton in respect of certain debentures issued by the Regional Corporation on behalf of the City in relation to the Hamilton Art Gallery.

Bill 192

1982

An Act to amend the Regional Municipality of Hamilton-Wentworth Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 134 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections: s. 134,
amended

(4) Upon the application of the occupier of a shop in the Regional Area, the Regional Council may by by-law exempt the shop from any provision or provisions of a by-law passed under section 211 of the *Municipal Act* on any such particular day or days of the year and for such special occasion as the by-law specifies, but no shop shall be exempted under this subsection from the provisions of a by-law passed under the said section 211 in more than two periods in any year. Exemption

R.S.O. 1980,
c. 302

(5) In subsection (4), "period" means a period not exceeding two consecutive days in duration. Interpre-
tation

2. The said Act is amended by adding thereto the following section: s. 161,
enacted

161.—(1) The Regional Council may by by-law assume, without Municipal Board approval, the liability of the City of Hamilton to retire the outstanding indebtedness of the City on the debentures issued by the Regional Corporation on behalf of the City for the Hamilton Art Gallery. Assumption
of liability
re Art
Gallery
debenture

(2) The Regional Council may by by-law pay to the City of Hamilton an amount equal to the sum paid by the City for the purpose of retiring the indebtedness referred to in subsection (1) in 1980, 1981 and 1982. Idem

Rights and
obligations
affected

(3) Nothing in subsection (1) affects the rights of any debenture holder or the obligations of the City of Hamilton in relation to the debentures issued under subsection (1).

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Regional Municipality of Hamilton-Wentworth Amendment Act, 1983*.

Bill 192

(Chapter 13
Statutes of Ontario, 1983)

An Act to amend the Regional Municipality of Hamilton-Wentworth Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	November 29th, 1982
<i>2nd Reading</i>	February 14th, 1983
<i>3rd Reading</i>	February 15th, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 192 1982

An Act to amend the Regional Municipality of Hamilton-Wentworth Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 134 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections: s. 134,
amended

(4) Upon the application of the occupier of a shop in the Regional Area, the Regional Council may by by-law exempt the shop from any provision or provisions of a by-law passed under section 211 of the *Municipal Act* on any such particular day or days of the year and for such special occasion as the by-law specifies, but no shop shall be exempted under this subsection from the provisions of a by-law passed under the said section 211 in more than two periods in any year. Exemption

R.S.O. 1980,
c. 302

(5) In subsection (4), "period" means a period not exceeding two consecutive days in duration. Interpre-
tation

2. The said Act is amended by adding thereto the following section: s. 161,
enacted

161.—(1) The Regional Council may by by-law assume, without Municipal Board approval, the liability of the City of Hamilton to retire the outstanding indebtedness of the City on the debentures issued by the Regional Corporation on behalf of the City for the Hamilton Art Gallery. Assumption
of liability
re Art
Gallery
debenture

(2) The Regional Council may by by-law pay to the City of Hamilton an amount equal to the sum paid by the City for the purpose of retiring the indebtedness referred to in subsection (1) in 1980, 1981 and 1982. Idem

Rights and
obligations
affected

(3) Nothing in subsection (1) affects the rights of any debenture holder or the obligations of the City of Hamilton in relation to the debentures issued under subsection (1).

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Regional Municipality of Hamilton-Wentworth Amendment Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Regional Municipality of Waterloo Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTE

The Bill authorizes the Regional Corporation to acquire and operate public historical museums.

The Bill also transfers Doon Pioneer Village and Heritage Community to the Regional Corporation from the Grand River Conservation Authority and the Ontario Pioneer Community Foundation.

BILL 193

1982

An Act to amend the Regional Municipality of Waterloo Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

177.—(1) In this section, “public historical museum” includes Doon Pioneer Village and Heritage Community. s. 177,
enacted
Interpre-
tation

(2) The Regional Corporation may acquire, erect, alter, maintain, operate and manage public historical museums and, without limiting the generality of the foregoing, the Regional Corporation may, Public
historical
museums

- (a) prescribe admission fees to any such public historical museum;
- (b) receive donations of money by gift, subscription, grant, bequest or otherwise for the purposes of such public historical museums;
- (c) receive or acquire by purchase, donation, lease, public subscription, grant, bequest or otherwise, and hold, preserve, maintain, reconstruct, restore, and manage property of historical interest;
- (d) enter into agreements with prospective donors, subject to any conditions governing the use of the donation;
- (e) subject to the terms of any trust in connection with such property, dispose of property received or acquired for any such public historical museum by sale, lease or any other manner and execute such deeds or other instruments as may be required to effect such disposal; and

- (f) act as trustee with respect to real or personal property donated to any such public historical museum or donated to the Regional Corporation for the purposes of any such public historical museum.

Doon Pioneer
Village and
Heritage
Community

(3) On the 1st day of January, 1983,

- (a) the lands and premises vested in the Grand River Conservation Authority and known as Doon Pioneer Village and Heritage Community, as more particularly described in the following Schedule;
- (b) all personal property including furnishings, artifacts and equipment of the Grand River Conservation Authority and the Ontario Pioneer Community Foundation located at and received or acquired for the Doon Pioneer Village and Heritage Community; and
- (c) all property held in trust by the Ontario Pioneer Community Foundation,

subject to any trust or lien or other encumbrance affecting any such property, vests in the Regional Corporation, without compensation, and all rights, duties and interests and all debts and liabilities of the Grand River Conservation Authority and the Ontario Pioneer Community Foundation related to the Doon Pioneer Village and Heritage Community become, on that day, rights, duties, interests, debts and liabilities of the Regional Corporation.

SCHEDULE

That parcel of land situate in the City of Kitchener, in The Regional Municipality of Waterloo, being composed of those parts of Bechtel's Tract and Biehn's Tract, formerly in the Township of Waterloo, being Lot 8 as shown on a Plan registered in the Land Registry Office for the Land Registry Division of Waterloo North (No. 58) as Registrar's Compiled Plan Number 1521.

References
to Ontario
Pioneer
Community
Foundation

- (4) A reference to the Ontario Pioneer Community Foundation in any deed, will or other instrument, giving or conveying property to the Foundation, whether executed before or after the 1st day of January, 1983, shall be deemed to be a reference to the Regional Corporation.

Application
of property

- (5) No property received by the Regional Corporation for the purpose of a public historical museum shall be used for any other purpose of the Regional Corporation and where the Regional Corporation disposes of any property under clause (2) (e), it shall use any money or other property received as a result of the disposition for the purposes of its public historical museums.

Delivery of
after-
acquired
property

(6) Where, after the 1st day of January, 1983, the Grand River Conservation Authority or the Ontario Pioneer Community Foundation receives any property for the purpose of the Doon Pioneer Village and Heritage Community, the Authority or the Foundation, as the case may be, shall forthwith deliver the property to the Regional Corporation.

Saving

(7) Subsection (3) does not apply to the funds of the Ontario Pioneer Community Foundation unless the funds are held in trust by the Foundation.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Regional Municipality of Waterloo Amendment Act, 1982*.

An Act to amend the Regional Municipality
of Waterloo Act

1st Reading

November 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(*Government Bill*)

Bill 193

An Act to amend the Regional Municipality of Waterloo Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	November 29th, 1982
<i>2nd Reading</i>	January 25th, 1983
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill authorizes the Regional Corporation to acquire and operate public historical museums.

The Bill also transfers Doon Pioneer Village and Heritage Community to the Regional Corporation from the Grand River Conservation Authority and the Ontario Pioneer Community Foundation.

Bill 193

1982

**An Act to amend the
Regional Municipality of Waterloo Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 177,
enacted

177.—(1) In this section, “public historical museum” includes Doon Pioneer Village and Heritage Community.

Interpretation

(2) The Regional Corporation may acquire, erect, alter, maintain, operate and manage public historical museums and, without limiting the generality of the foregoing, the Regional Corporation may,

Public
historical
museums

- (a) prescribe admission fees to any such public historical museum;
- (b) receive donations of money by gift, subscription, grant, bequest or otherwise for the purposes of such public historical museums;
- (c) receive or acquire by purchase, donation, lease, public subscription, grant, bequest or otherwise, and hold, preserve, maintain, reconstruct, restore, and manage property of historical interest;
- (d) enter into agreements with prospective donors, subject to any conditions governing the use of the donation;
- (e) subject to the terms of any trust in connection with such property, dispose of property received or acquired for any such public historical museum by sale, lease or any other manner and execute such deeds or

other instruments as may be required to effect such disposal; and

- (f) act as trustee with respect to real or personal property donated to any such public historical museum or donated to the Regional Corporation for the purposes of any such public historical museum.

Doon
Pioneer
Village and
Heritage
Community

(3) On the 1st day of March, 1983,

- (a) the lands and premises vested in the Grand River Conservation Authority and known as Doon Pioneer Village and Heritage Community, as more particularly described in the following Schedule;
- (b) all personal property including furnishings, artifacts and equipment of the Grand River Conservation Authority and the Ontario Pioneer Community Foundation located at and received or acquired for the Doon Pioneer Village and Heritage Community; and
- (c) all property held in trust by the Ontario Pioneer Community Foundation,

subject to any trust or lien or other encumbrance affecting any such property, vests in the Regional Corporation, without compensation, and all rights, duties and interests and all debts and liabilities of the Grand River Conservation Authority and the Ontario Pioneer Community Foundation related to the Doon Pioneer Village and Heritage Community become, on that day, rights, duties, interests, debts and liabilities of the Regional Corporation.

SCHEDULE

That parcel of land situate in the City of Kitchener, in The Regional Municipality of Waterloo, being composed of those parts of Bechtel's Tract and Biehn's Tract, formerly in the Township of Waterloo, being Lot 8 as shown on a Plan registered in the Land Registry Office for the Land Registry Division of Waterloo North (No. 58) as Registrar's Compiled Plan Number 1521.

References
to Ontario
Pioneer
Community
Foundation

(4) A reference to the Ontario Pioneer Community Foundation in any deed, will or other instrument, giving or conveying property to the Foundation, whether executed before or after the 1st day of March, 1983, shall be deemed to be a reference to the Regional Corporation.

Application
of property

(5) No property received by the Regional Corporation for the purpose of a public historical museum shall be used for any

other purpose of the Regional Corporation and where the Regional Corporation disposes of any property under clause (2) (e), it shall use any money or other property received as a result of the disposition for the purposes of its public historical museums.

(6) Where, after the 1st day of March, 1983, the Grand River Conservation Authority or the Ontario Pioneer Community Foundation receives any property for the purpose of the Doon Pioneer Village and Heritage Community, the Authority or the Foundation, as the case may be, shall forthwith deliver the property to the Regional Corporation.

Delivery of
after-
acquired
property

(7) Subsection (3) does not apply to the funds of the Ontario Pioneer Community Foundation unless the funds are held in trust by the Foundation.

Saving

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Regional Municipality of Waterloo Amendment Act, 1983*.

Short title

Bill 193

*(Chapter 4
Statutes of Ontario, 1983)*

An Act to amend the Regional Municipality of Waterloo Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	November 29th, 1982
<i>2nd Reading</i>	January 25th, 1983
<i>3rd Reading</i>	January 25th, 1983
<i>Royal Assent</i>	January 27th, 1983

Bill 193

1982

**An Act to amend the
Regional Municipality of Waterloo Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 177,
enacted

177.—(1) In this section, “public historical museum” includes Doon Pioneer Village and Heritage Community.

Interpre-
tation

(2) The Regional Corporation may acquire, erect, alter, maintain, operate and manage public historical museums and, without limiting the generality of the foregoing, the Regional Corporation may,

Public
historical
museums

- (a) prescribe admission fees to any such public historical museum;
- (b) receive donations of money by gift, subscription, grant, bequest or otherwise for the purposes of such public historical museums;
- (c) receive or acquire by purchase, donation, lease, public subscription, grant, bequest or otherwise, and hold, preserve, maintain, reconstruct, restore, and manage property of historical interest;
- (d) enter into agreements with prospective donors, subject to any conditions governing the use of the donation;
- (e) subject to the terms of any trust in connection with such property, dispose of property received or acquired for any such public historical museum by sale, lease or any other manner and execute such deeds or

other instruments as may be required to effect such disposal; and

- (f) act as trustee with respect to real or personal property donated to any such public historical museum or donated to the Regional Corporation for the purposes of any such public historical museum.

Doon
Pioneer
Village and
Heritage
Community

(3) On the 1st day of March, 1983,

- (a) the lands and premises vested in the Grand River Conservation Authority and known as Doon Pioneer Village and Heritage Community, as more particularly described in the following Schedule;
- (b) all personal property including furnishings, artifacts and equipment of the Grand River Conservation Authority and the Ontario Pioneer Community Foundation located at and received or acquired for the Doon Pioneer Village and Heritage Community; and
- (c) all property held in trust by the Ontario Pioneer Community Foundation,

subject to any trust or lien or other encumbrance affecting any such property, vests in the Regional Corporation, without compensation, and all rights, duties and interests and all debts and liabilities of the Grand River Conservation Authority and the Ontario Pioneer Community Foundation related to the Doon Pioneer Village and Heritage Community become, on that day, rights, duties, interests, debts and liabilities of the Regional Corporation.

SCHEDULE

That parcel of land situate in the City of Kitchener, in The Regional Municipality of Waterloo, being composed of those parts of Bechtel's Tract and Biehn's Tract, formerly in the Township of Waterloo, being Lot 8 as shown on a Plan registered in the Land Registry Office for the Land Registry Division of Waterloo North (No. 58) as Registrar's Compiled Plan Number 1521.

Références
to Ontario
Pioneer
Community
Foundation

(4) A reference to the Ontario Pioneer Community Foundation in any deed, will or other instrument, giving or conveying property to the Foundation, whether executed before or after the 1st day of March, 1983, shall be deemed to be a reference to the Regional Corporation.

Application
of property

(5) No property received by the Regional Corporation for the purpose of a public historical museum shall be used for any

other purpose of the Regional Corporation and where the Regional Corporation disposes of any property under clause (2) (e), it shall use any money or other property received as a result of the disposition for the purposes of its public historical museums.

(6) Where, after the 1st day of March, 1983, the Grand River Conservation Authority or the Ontario Pioneer Community Foundation receives any property for the purpose of the Doon Pioneer Village and Heritage Community, the Authority or the Foundation, as the case may be, shall forthwith deliver the property to the Regional Corporation.

Delivery of
after-
acquired
property

(7) Subsection (3) does not apply to the funds of the Ontario Pioneer Community Foundation unless the funds are held in trust by the Foundation.

Saving

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Regional Municipality of Waterloo Amendment Act, 1983*.

Short title

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend
certain Acts in respect of Planning and related Matters**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTE

The Bill is companion to Bill 159, An Act to revise the *Planning Act*, given first reading in the House on October 29th, 1981. It amends the *Municipal Act*, the various Regional Acts, the *District Municipality of Muskoka Act*, the *County of Oxford Act* and the *Municipality of Metropolitan Toronto Act* to reflect changes in planning matters that will be brought about when Bill 159 comes into force as an Act of the Legislature.

The effect of the amendments to the *Municipal Act* is to transfer to that Act certain powers respecting building by-laws and related matters now found in the present *Planning Act* but that have been deleted from Bill 159. In addition the provisions of the *Municipal Act* respecting signs found in paragraphs 141 to 144 of section 210 of that Act have been substantially altered.

The other provisions of the Bill repeal those specific provisions in the various Acts mentioned relating to planning matters that will be no longer required with the coming into force of the new *Planning Act* and restructures certain other such provisions that are required to be retained.

BILL 194

1982

An Act to amend certain Acts in respect of Planning and related Matters

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraphs 141, 142, 143 and 144 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 302, s. 210,
pars. 141-144,
re-enacted;
pars. 144a,
144b,
enacted

141. For prohibiting or regulating signs and other advertising devices or any class or classes thereof and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway.

Signs

142. A by-law passed under paragraph 141 may specify a time period during which signs or other advertising devices in a defined class may stand or be displayed in the municipality and may require the removal of such signs or other advertising devices which continue to stand or be displayed after such time period has expired.

Temporary
signs

143. A by-law passed under paragraph 141 may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality.

Production
of plans

- (a) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration.

Pulling down,
etc., of signs
unlawfully
erected

144. A by-law passed under paragraph 141 may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who,

- (a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or
- (b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies.

Notice

144a. Before passing a by-law under paragraph 141,

- (a) notice of the proposed by-law and notice of the council meeting at which the proposed by-law is to be discussed shall be published once at least fourteen days prior to the council meeting indicated in the notice and in the case of a municipality where there is no newspaper having general circulation in the municipality, shall be posted in a conspicuous place in the municipality for at least fourteen days prior to the council meeting indicated in the notice; and
- (b) the council shall hear any person who before the council meeting indicated in the notice applies to be heard.

Minor
variances

144b. The council may, upon the application of any person, authorize minor variances from the provisions of a by-law passed under paragraph 141, provided that in the opinion of the council the general intent and purpose of the by-law are maintained.

Saving
R.S.O. 1980,
c. 302

(2) No by-law passed under paragraph 141 of section 210 of the *Municipal Act*, as it existed on the day before the day this section comes into force, that prohibits or regulates signs or other advertising devices, applies so as to require a sign or advertising device that is lawfully erected or displayed on the day this section comes into force, but that does not comply with the by-law, to be made to comply with the by-law or to be removed by the owner or the owner of the land on which it is situate, so long as the sign or advertising device is not in any way substantially altered, provided that the maintenance and repair of the sign or advertising device or a change in the message displayed shall be deemed not to in itself constitute an alteration.

(3) No by-law passed under paragraph 141 of section 210 of the *Municipal Act*, as re-enacted by subsection 1 (1) of this Act, that prohibits or regulates signs or other advertising devices, applies to a sign or advertising device that is lawfully erected or displayed on the day the by-law comes into force, so long as the sign or advertising device is not in any way substantially altered, provided that the maintenance and repair of the sign or advertising device or a change in the message displayed shall be deemed not to in itself constitute an alteration.

Non-application to lawfully erected signs, etc.
R.S.O. 1980, c. 302

(4) Section 210 of the said Act is amended by adding thereto the following paragraphs:

Idem, s. 210, amended

162. For regulating the size and strength of frame, wooden, brick, stone, cement and concrete walls, and of the foundations and foundation walls, beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all such buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees and for the issuing of a permit certifying to such approval without which permit no building or structure may be erected, altered or repaired, and for authorizing the refusal of a permit for any building or structure that if constructed would be contrary to the provisions of any by-law of the municipality or of a by-law of any other municipality, including a county and a metropolitan municipality, or the laws of Ontario or Canada in force in the municipality.

Size and strength of walls, etc., and production of plans

163. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be considered necessary for ascertaining such levels.

Ascertaining levels of cellars, etc.

164. For fixing grade lines of streets; for providing that the levels of cellars and basements on such streets shall bear a relation, fixed in the by-law, to such lines; and for requiring that a ground or block plan of any proposed building be deposited with an officer named in the by-law, before the issue of a building permit for such building, showing the levels of the cellars and basements in relation to the grade lines fixed in the by-law.

Establishing grades of streets and levels of basements

165. For regulating, controlling and inspecting, subject to the *Boilers and Pressure Vessels Act*, all hot air, hot water and steam heating plants and equipment, or any classes thereof, and the installation thereof; and for requiring the production of plans of all installations of such plant and equipment and alterations or additions thereto, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for

Regulation, etc., of heating plant and equipment
R.S.O. 1980, c. 46

the issuing of a permit certifying to such approval and for requiring that without such permit no such plant and equipment may be installed, altered or added to.

Regulating removal and wrecking of buildings and structures

166. For regulating the removing or wrecking of buildings and structures and the spraying thereof during such work so as to prevent dust or rubbish arising therefrom, and for the issuing of a permit for the removing, wrecking or partial removing or wrecking of buildings and structures without which no building or structure may be removed or wrecked or partially removed or wrecked, and for fixing and charging fees for such permit.

Production of plans of public buildings, etc.

167. For requiring the production of the plans of hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement or for public meetings now erected or which it is proposed to erect, and for prohibiting the use or erection of them until the provisions of any regulation under the *Building Code Act* is complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

R.S.O. 1980, c. 51

Owner's liability to repair land in front of commercial buildings

168. For requiring every owner of land upon which there is erected a building used or intended to be used for commercial purposes to keep in repair any portion of his land lying between the building and the street line that is used by the public as part of the sidewalk on such street.

Repairs to existing buildings

169. For regulating the repairing or alteration of roofs or the external walls of existing buildings so that the buildings may be as nearly as practicable fire-proof.

Pulling down, etc., of buildings illegally erected

170. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling down buildings in ruinous state

171. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise, is in an unsafe condition as regards danger from fire or risk of accident.

Construction of cellars, drains, etc.

172. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them.

Control of termites

173. For requiring,

- i. any building or structure or any class or classes thereof heretofore or hereafter erected or any additions thereto

to be rendered resistant to infestation by termites and other wood-destroying insects,

- ii. the repair of any part of any building or structure or any class or classes thereof that has been damaged by termites or other wood-destroying insects,

- iii. the removal and destruction or in the alternative the separation from the soil by an approved non-cellulose barrier of all wooden poles, tree-stumps or other wooden or cellulose material that is not part of a building if they are certified by the building inspector or commissioner to be infested by termites or other wood destroying insects,

- iv. the removal and destruction or in the alternative the separation from the soil by an approved non-cellulose barrier of all wooden poles, tree-stumps or other wooden or cellulose material that is not part of a building which is or may become a hazard of infestation or re-infestation to a building or structure of any class or classes thereof rendered resistant to infestation under subparagraph i or repaired under subparagraph ii.

174. For providing for the payment by the municipality of not more than one-half of the cost,

Cost of
control of
termites and
repairs

- i. of repairing any damage done to any building or structure or any class or classes thereof by termites or other wood-destroying insects, and
- ii. of rendering resistant to infestation by termites or other wood-destroying insects any building or structure or any class or classes thereof that were erected before a by-law is passed under this paragraph,

and for providing for the making of loans to the owners of such buildings or structures to pay for the whole or any part of the cost of such repairs or of the rendering resistant to such infestation, less any amount paid by the municipality, on such terms and conditions as the council may prescribe.

- (a) The amount of any loan made under a by-law passed under this paragraph, or a predecessor hereof, together with interest at a rate to be determined by council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as munici-

pal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

- (b) A certificate of the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this paragraph, or a predecessor hereof, including the rate of interest thereon, together with a description sufficient to identify the land in respect of which the loan has been made, shall be registered in the proper land registry office against the land upon proof by affidavit of the signature of the clerk, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate of the clerk showing such repayment shall be similarly registered, and thereupon the lands are freed from all liability with reference thereto.

Idem,
ss. 210a-210c,
enacted

- (5) The said Act is amended by adding thereto the following sections:

Township
by-laws

210a. A by-law passed by the council of a township under any of paragraphs 162 to 174 of section 210 may be made applicable to the township or one or more defined areas thereof as set out in the by-law.

Building
inspector

210b. The council of a county, including the County of Oxford, or a regional or district municipality may enter into an agreement with one or more local municipalities for the appointment by the county, regional or district council of a building inspector for the administration of by-laws passed under paragraphs 162 to 174 of section 210 by such local municipalities and for charging such municipalities the whole or part of the cost of such building inspector.

Deemed
county for
purposes of
R.S.O. 1980,
c. 51

210c. The County of Oxford, The District Municipality of Muskoka and every regional municipality, except The Regional Municipality of Sudbury and The Regional Municipality of Hal-
dimand-Norfolk, shall be deemed to be a county for the purposes of the *Building Code Act*.

R.S.O. 1980,
c. 439, s. 96,
re-enacted;
ss. 97-100,
repealed

2. Sections 96, 97, 98, 99 and 100 of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan for
Regional
Area

96. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 438, s. 100,
re-enacted;
ss. 101-103,
repealed

3. Sections 100, 101, 102 and 103 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

100. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

Official
plan for
Regional
Area

4. Sections 96, 97, 98 and 99 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 443, s. 96,
re-enacted;
ss. 97-99,
repealed

96. The Regional Council shall prepare, adopt and forward to the Minister of Municipal Affairs and Housing for approval, an official plan for the Regional Area.

Official
plan

5. Section 27 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 441, s. 27,
re-enacted

27.—(1) In addition to the powers given to the Regional Council under the *Planning Act, 1982*, the Regional Council may exercise all the powers of a local municipality under that Act and no area municipality shall exercise any powers under the *Planning Act, 1982*.

Powers of
Regional
Council
under
1982, c....

(2) The Regional Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act* and no council of an area municipality shall exercise any such powers.

Powers of
Regional
Council under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of the *Building Code Act*.

Deemed
municipality
for purposes of
R.S.O. 1980,
c. 51

(4) Where the Regional Corporation has incurred a cost under subsection 10 (4) of the *Building Code Act*, the cost may be charged to the area municipality in which the building is situate and the clerk of the area municipality shall add the cost to the collector's roll, collect the cost in like manner as municipal taxes and, when the cost has been collected, pay it to the Regional Corporation.

Collection
of costs
under
R.S.O. 1980,
c. 51

(5) Every by-law passed under the provisions of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, by a local municipality as it existed on the 31st day of December, 1972, shall continue in force until repealed by the Regional Council.

By-laws
under
R.S.O. 1970,
c. 349,
continued

(6) The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

Official
plan for
Regional
Area

6. Sections 95, 96 and 97 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 442, s. 95,
re-enacted;
ss. 96, 97,
repealed

Official
plan for
Regional
Area

95. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 440, s. 59,
re-enacted;
ss. 60, 61,
repealed

7. Sections 59, 60 and 61 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan

59. The Regional Council shall prepare, adopt and forward to the Minister of Municipal Affairs and Housing for approval, an official plan for the Regional Area.

R.S.O. 1980,
c. 436, s. 64,
re-enacted;
ss. 65, 66,
repealed

8. Sections 64, 65 and 66 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan for
Regional
Area

64. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 437, s. 75,
re-enacted;
ss. 76, 77,
repealed

9. Sections 75, 76 and 77 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan for
Regional
Area

75. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 434,
ss. 68, 69, 70,
re-enacted;
ss. 71, 72,
repealed

10. Sections 68, 69, 70, 71 and 72 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plans
preserved

68. All official plans in effect in any part of the Regional Area, on and after the 1st day of January, 1974, remain in effect as official plans but shall be amended forthwith to conform with the official plan adopted by the Regional Council and approved by the Minister.

Area
municipality
plans

69.—(1) Every council of an area municipality shall, at the request of the Regional Council, prepare a plan for the area municipality and forward it to the Regional Council.

Powers of
Regional
Council
re plans

(2) The Regional Council shall, in respect of plans submitted to it under subsection (1),

- (a) adopt the plan as submitted, with or without amendment by the Regional Council, and forward it to the Minister of Municipal Affairs and Housing for approval as an official plan; or

(b) reject the plan.

70. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

Official
plan for
Regional
Area

11. Sections 51, 52, 53, 54 and 55 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 435,
ss. 51-55,
re-enacted

51.—(1) In addition to the powers given to the Regional Council under the *Planning Act, 1982*, the Regional Council may exercise all the powers of a local municipality under that Act and no area municipality, except as provided in this Part, shall exercise any powers under the *Planning Act, 1982*.

Powers of
Regional
Council under
1982, c....

(2) The Regional Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act* and no council of an area municipality shall exercise any such powers.

Powers of
Regional
Council under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of the *Building Code Act*.

Deemed
municipality
for purposes of
R.S.O. 1980,
c. 51

(4) Every by-law passed under the provisions of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, by a local municipality as it existed on the 31st day of March, 1974, shall continue in force until amended or repealed by the Regional Council.

By-laws under
R.S.O. 1970,
c. 349,
continued

52. Where the Regional Corporation has incurred a cost under subsection 10 (4) of the *Building Code Act*, the cost may be charged to the area municipality in which the building is situate, and the clerk of the area municipality shall add the cost to the collector's roll, collect the cost in like manner as municipal taxes and, when the cost has been collected, pay it to the Regional Corporation.

Collection of
costs under
R.S.O. 1980,
c. 51


53. The Regional Council may delegate, for such period and on such terms and conditions as the Regional Council considers necessary, to the council of any area municipality the authority to exercise such of the powers under sections 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43 and 44 of the *Planning Act, 1982* as the Regional Council may determine.

Delegation
of powers
to area
municipalities
1982, c....

54. Every council of an area municipality shall, at the request of the Regional Council, prepare and adopt an official plan for the area municipality.

Area
municipality
plans

Official
plan for
Regional
Area

55. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area. 



R.S.O. 1980,
c. 121,
ss. 51, 52,
re-enacted;
s. 53, repealed

- 12.** Sections 51, 52 and 53 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plans

51. No area municipality shall exercise any power with respect to the preparation and lodging of official plans under Part III of the *Planning Act*, 1982.

Official
plan for
District
Area


 52. The District Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the District Area. 

R.S.O. 1980,
c. 365,
ss. 62, 63,
re-enacted;
s. 64,
repealed
Powers of
County
Council under
1982, c....


- 13.** Sections 62, 63 and 64 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

62.—(1) The County Council may exercise all the powers, including the powers of a local municipality, under the *Planning Act*, 1982 and no area municipality shall, except as provided in subsections (2), (3) and (4), exercise any powers under the *Planning Act*, 1982.

Committee of
adjustment

 (2) The council of each area municipality is deemed to be a committee of adjustment under the *Planning Act*, 1982.

Powers of
area muni-
cipality
councils under
1982, c....

(3) The council of an area municipality may exercise the powers provided in section 28, except subsection (11) thereof, sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 45 and 68 of the *Planning Act*, 1982, but in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers, the by-law passed by the County Council shall prevail. 


Powers of
County
Council under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

(4) The County Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act*, and in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers, the by-law passed by the County Council shall prevail.

Subdivision
agreements

(5) The County Council may delegate to the council of an area municipality any of its powers in respect of subdivision agreements.

Official
plan
continued

 (6) All official plans in effect in the County on the 31st day of December, 1974 are deemed to be the official plans of the County until such time as they are repealed in whole or in part.

(7) Subsection 53 (1) of the *Planning Act, 1982* has no application to the County and the County Council may be or may constitute and appoint a land division committee for the purposes of giving consents under the *Planning Act, 1982*. Appointment of land division committee

63. The County Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the County. Official plan for County

14. Sections 200, 201, 202, 203, 204 and 205 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor: R.S.O. 1980, c. 314, ss. 200, 201, re-enacted; ss. 202-205, repealed

200.—(1) Notwithstanding section 5 of the *Planning Act, 1982*, where the Minister has by order made under subsection 4 (1) of the *Planning Act, 1982* delegated to the Metropolitan Council the Minister's authority to approve an official plan or amendments thereto of an area municipality, the Metropolitan Council may by by-law and subject to such conditions as may have been imposed by the Minister, delegate such authority to the Executive Committee for the period of any summer recess of the Metropolitan Council and upon such terms and conditions as the by-law specifies and the Executive Committee has, in lieu of the Minister, all powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. Delegation to Executive Committee

(2) The Executive Committee shall report each decision made under any by-law passed under subsection (1) to the Metropolitan Council at the next regular meeting of the Metropolitan Council. Report to Metropolitan Council

201. The Metropolitan Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Metropolitan Area. Official plan for Metropolitan Area

15. A benefit, right or status conferred upon a person by sections 204 and 205 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as those sections were on the day immediately prior to the coming into force of this Act is vested in the person notwithstanding section 14. Rights vested

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

17. The short title of this Act is the *Planning Statute Law Amendment Act, 1982*. Short title

An Act to amend certain Acts in
respect of Planning and related Matters

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Reprinted as amended by the
General Government Committee)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

**An Act to amend
certain Acts in respect of Planning and related Matters**

**THE HON. C. BENNETT
Minister of Municipal Affairs and Housing**

EXPLANATORY NOTE

The Bill is companion to Bill 159, An Act to revise the *Planning Act*, given first reading in the House on October 29th, 1981. It amends the *Municipal Act*, the various Regional Acts, the *District Municipality of Muskoka Act*, the *County of Oxford Act* and the *Municipality of Metropolitan Toronto Act* to reflect changes in planning matters that will be brought about when Bill 159 comes into force as an Act of the Legislature.

The effect of the amendments to the *Municipal Act* is to transfer to that Act certain powers respecting building by-laws and related matters now found in the present *Planning Act* but that have been deleted from Bill 159 and to delete from the *Municipal Act* certain provisions respecting signs that are now found in Bill 159.

The other provisions of the Bill repeal those specific provisions in the various Acts mentioned relating to planning matters that will be no longer required with the coming into force of the new *Planning Act* and restructures certain other such provisions that are required to be retained.

BILL 194

1982

An Act to amend certain Acts in respect of Planning and related Matters

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraphs 141, 142, 143 and 144 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed. R.S.O. 1980,
c. 302, s. 210,
pars. 141-144,
repealed
- (2) Section 210 of the said Act is amended by adding thereto the following paragraphs: s. 210,
amended
 162. For regulating the size and strength of frame, wooden, brick, stone, cement and concrete walls, and of the foundations and foundation walls, beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all such buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees and for the issuing of a permit certifying to such approval without which permit no building or structure may be erected, altered or repaired, and for authorizing the refusal of a permit for any building or structure that if constructed would be contrary to the provisions of any by-law of the municipality or of a by-law of any other municipality, including a county and a metropolitan municipality, or the laws of Ontario or Canada in force in the municipality. Size and
strength of
walls, etc.,
and production
of plans
 163. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be considered necessary for ascertaining such levels. Ascertaining
levels of
cellars, etc.
 164. For fixing grade lines of streets; for providing that the levels of cellars and basements on such streets shall bear a relation, fixed in the by-law, to such lines; and for requiring that a ground or block plan of any proposed building be deposited with an officer Establishing
grades of
streets and
levels of
basements

named in the by-law, before the issue of a building permit for such building, showing the levels of the cellars and basements in relation to the grade lines fixed in the by-law.

Regulation,
etc., of
heating
plant and
equipment
R.S.O. 1980,
c. 46

165. For regulating, controlling and inspecting, subject to the *Boilers and Pressure Vessels Act*, all hot air, hot water and steam heating plants and equipment, or any classes thereof, and the installation thereof; and for requiring the production of plans of all installations of such plant and equipment and alterations or additions thereto, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for the issuing of a permit certifying to such approval and for requiring that without such permit no such plant and equipment may be installed, altered or added to.

Regulating
removal and
wrecking of
buildings and
structures

166. For regulating the removing or wrecking of buildings and structures and the spraying thereof during such work so as to prevent dust or rubbish arising therefrom, and for the issuing of a permit for the removing, wrecking or partial removing or wrecking of buildings and structures without which no building or structure may be removed or wrecked or partially removed or wrecked, and for fixing and charging fees for such permit.

Production
of plans of
public
buildings, etc.

R.S.O. 1980,
c. 51

167. For requiring the production of the plans of hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement or for public meetings now erected or which it is proposed to erect, and for prohibiting the use or erection of them until the provisions of any regulation under the *Building Code Act* is complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

Owner's
liability to
repair land
in front of
commercial
buildings

168. For requiring every owner of land upon which there is erected a building used or intended to be used for commercial purposes to keep in repair any portion of his land lying between the building and the street line that is used by the public as part of the sidewalk on such street.

Repairs to
existing
buildings

169. For regulating the repairing or alteration of roofs or the external walls of existing buildings so that the buildings may be as nearly as practicable fire-proof.

Pulling down,
etc., of
buildings
illegally
erected

170. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling down
buildings in
ruinous state

171. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise, is in an unsafe condition as regards danger from fire or risk of accident.

172. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them.

Construction
of cellars,
drains, etc.

173. For requiring,

Control of
termites

- i. any building or structure or any class or classes thereof heretofore or hereafter erected or any additions thereto to be rendered resistant to infestation by termites and other wood-destroying insects,
- ii. the repair of any part of any building or structure or any class or classes thereof that has been damaged by termites or other wood-destroying insects,
- iii. the removal and destruction of all wooden poles, trees, stumps or other wooden or cellulose material that is not part of a building if they are certified by the building inspector or commissioner to be infested by termites or other wood-destroying insects.

174. For providing for the payment by the municipality, not to exceed in any case \$250, of not more than one-half of the cost,

Cost of
control of
termites and
repairs

- i. of repairing any damage done to any building or structure or any class or classes thereof by termites or other wood-destroying insects, and
- ii. of rendering resistant to infestation by termites or other wood-destroying insects any building or structure or any class or classes thereof that were erected before a by-law is passed under this paragraph,

and for providing for the making of loans to the owners of such buildings or structures to pay for the whole or any part of the cost of such repairs or of the rendering resistant to such infestation, less any amount paid by the municipality, on such terms and conditions as the council may prescribe.

- (a) The amount of any loan made under a by-law passed under this paragraph, or a predecessor hereof, together with interest at a rate not exceeding 5 per cent per annum, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

- (b) A certificate of the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this paragraph, or a predecessor hereof, including the rate of interest thereon, together with a description sufficient to identify the land in respect of which the loan has been made, shall be registered in the proper land registry office against the land upon proof by affidavit of the signature of the clerk, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate of the clerk showing such repayment shall be similarly registered, and thereupon the lands are freed from all liability with reference thereto.

ss. 210a-210c,
enacted

- (3) The said Act is amended by adding thereto the following sections:

Township
by-laws

210a. A by-law passed by the council of a township under any of paragraphs 162 to 174 of section 210 may be made applicable to the township or one or more defined areas thereof as set out in the by-law.

Building
inspector

210b. The council of a county, including the County of Oxford, or a regional or district municipality may enter into an agreement with one or more local municipalities for the appointment by the county, regional or district council of a building inspector for the administration of by-laws passed under paragraphs 162 to 174 of section 210 by such local municipalities and for charging such municipalities the whole or part of the cost of such building inspector.

Deemed
county for
purposes of
R.S.O. 1980,
c. 51

210c. The County of Oxford, The District Municipality of Muskoka and every regional municipality, except The Regional Municipality of Sudbury and The Regional Municipality of Hal-dimand-Norfolk, shall be deemed to be a county for the purposes of the *Building Code Act*.

R.S.O. 1980,
c. 439,
ss. 96-100,
repealed

2. Sections 96, 97, 98, 99 and 100 of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, are repealed.

R.S.O. 1980,
c. 438,
ss. 100-103,
repealed

3. Sections 100, 101, 102 and 103 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

R.S.O. 1980,
c. 443, s. 96,
re-enacted;
ss. 97-99,
repealed

4. Sections 96, 97, 98 and 99 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan

96. The Regional Council shall prepare, adopt and forward to the Minister of Municipal Affairs and Housing for approval, an official plan for the Regional Area.

5. Section 27 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
- 27.—(1) In addition to the powers given to the Regional Council under the *Planning Act, 1981*, the Regional Council may exercise all the powers of a local municipality under that Act and no area municipality shall exercise any powers under the *Planning Act, 1981*. Powers of Regional Council under 1981, c. . . .
- (2) The Regional Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act* and no council of an area municipality shall exercise any such powers. Powers of Regional Council under R.S.O. 1980, c. 302, s. 210, pars. 162-174
- (3) The Regional Corporation shall be deemed to be a municipality for the purposes of the *Building Code Act*. Deemed municipality for purposes of R.S.O. 1980, c. 51
- (4) Where the Regional Corporation has incurred a cost under subsection 10 (4) of the *Building Code Act*, the cost may be charged to the area municipality in which the building is situated and the clerk of the area municipality shall add the cost to the collector's roll, collect the cost in like manner as municipal taxes and, when the cost has been collected, pay it to the Regional Corporation. Collection of costs under R.S.O. 1980, c. 51
- (5) Every by-law passed under the provisions of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, by a local municipality as it existed on the 31st day of December, 1972, shall continue in force until repealed by the Regional Council. By-laws under R.S.O. 1970, c. 349, continued
6. Sections 95, 96 and 97 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed. R.S.O. 1980, c. 442, ss. 95-97, repealed
7. Sections 59, 60 and 61 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:
59. The Regional Council shall prepare, adopt and forward to the Minister of Municipal Affairs and Housing for approval, an official plan for the Regional Area. R.S.O. 1980, c. 440, s. 59, re-enacted; ss. 60, 61, repealed
8. Sections 64, 65 and 66 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed. Official plan
9. Sections 75, 76 and 77 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed. R.S.O. 1980, c. 436, ss. 64-66, repealed
10. Sections 75, 76 and 77 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed. R.S.O. 1980, c. 437, ss. 75-77, repealed

R.S.O. 1980,
c. 434,
ss. 68, 69,
re-enacted;
ss. 70-72,
repealed

- 10.** Sections 68, 69, 70, 71 and 72 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plans
preserved

68. All official plans in effect in any part of the Regional Area, on and after the 1st day of January, 1974, remain in effect as official plans but shall be amended forthwith to conform with the official plan adopted by the Regional Council and approved by the Minister.

Area
municipality
plans

69.—(1) Every council of an area municipality shall, at the request of the Regional Council, prepare a plan for the area municipality and forward it to the Regional Council.

Powers of
Regional
Council
re plans

(2) The Regional Council shall, in respect of plans submitted to it under subsection (1),

(a) adopt the plan as submitted, with or without amendment by the Regional Council, and forward it to the Minister of Municipal Affairs and Housing for approval as an official plan; or

(b) reject the plan.

R.S.O. 1980,
c. 435,
ss. 51-55,
re-enacted

- 11.** Sections 51, 52, 53, 54 and 55 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Powers of
Regional
Council under
1981, c. ...

51.—(1) In addition to the powers given to the Regional Council under the *Planning Act, 1981*, the Regional Council may exercise all the powers of a local municipality under that Act and no area municipality, except as provided in this Part, shall exercise any powers under the *Planning Act, 1981*.

Powers of
Regional
Council under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

(2) The Regional Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act* and no council of an area municipality shall exercise any such powers.

Deemed
municipality
for purposes of
R.S.O. 1980,
c. 51

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of the *Building Code Act*.

By-laws under
R.S.O. 1970,
c. 349,
continued

(4) Every by-law passed under the provisions of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, by a local municipality as it existed on the 31st day of March, 1974, shall continue in force until amended or repealed by the Regional Council.

52. Where the Regional Corporation has incurred a cost under subsection 10 (4) of the *Building Code Act*, the cost may be charged to the area municipality in which the building is situate, and the clerk of the area municipality shall add the cost to the collector's roll, collect the cost in like manner as municipal taxes and, when the cost has been collected, pay it to the Regional Corporation.

Collection of costs under R.S.O. 1980, c. 51

53. The Regional Council may authorize, for such period and on such terms and conditions as the Regional Council considers necessary, the council of any area municipality to exercise such of the powers under sections 34, 35, 36, 37, 38, 39 and 40 of the *Planning Act, 1981*, as the Regional Council may determine.

Area municipality powers under 1981, c. ...

54.—(1) Every council of an area municipality shall, at the request of the Regional Council, prepare a plan for the area municipality and forward it to the Regional Council.

Area municipality plans

(2) The Regional Council shall, in respect of plans submitted to it under subsection (1),

Powers of Regional Council re plans

(a) adopt the plan as submitted, with or without amendment by the Regional Council, as an amendment to the official plan of the Regional Area and forward it to the Minister of Municipal Affairs and Housing for approval; or

(b) reject the plan.

55. The Regional Council may authorize the council of an area municipality to appoint a committee of adjustment.

Committee of adjustment

12. Sections 51, 52 and 53 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980, c. 121, s. 51, re-enacted; ss. 52, 53, repealed

51. No area municipality shall exercise any power with respect to the preparation and lodging of official plans under Part III of the *Planning Act, 1981*.

Official plans

13. Sections 62, 63 and 64 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980, c. 365, s. 62, re-enacted; ss. 63, 64, repealed

62.—(1) The County Council may exercise all the powers, including the powers of a local municipality, under the *Planning Act, 1981* and no area municipality shall, except as provided in subsections (2), (3) and (4), exercise any powers under the *Planning Act, 1981*.

Powers of County Council under 1981, c. ...

Committee of
adjustment

(2) The council of each area municipality is deemed to be a committee of adjustment under section 45 of the *Planning Act, 1981*.

Powers of
area muni-
cipality
councils under
1981, c. ...

(3) The council of an area municipality may exercise the powers provided in section 28, except subsection (11), sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 46 and 70 of the *Planning Act, 1981*, but in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers, the by-law passed by the County Council shall prevail.

Powers of
County
Council under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

(4) The County Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act*, and in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers, the by-law passed by the County Council shall prevail.

Subdivision
agreements

(5) The County Council may delegate to the council of an area municipality any of its powers in respect of subdivision agreements.

R.S.O. 1980,
c. 314,
ss. 200-205,
repealed

14. Sections 200, 201, 202, 203, 204 and 205 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, are repealed.

Rights
vested

15. A benefit, right or status conferred upon a person by sections 204 and 205 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as those sections were on the day immediately prior to the coming into force of this Act is vested in the person notwithstanding section 14.

Commence-
ment

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

17. The short title of this Act is the *Planning Statute Law Amendment Act, 1982*.

An Act to amend certain Acts in
respect of Planning and related Matters

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

Bill 194

*(Chapter 5
Statutes of Ontario, 1983)*

An Act to amend certain Acts in respect of Planning and related Matters

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	March 9th, 1982
<i>2nd Reading</i>	March 9th, 1982
<i>3rd Reading</i>	January 25th, 1983
<i>Royal Assent</i>	January 27th, 1983

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Bill 194

1982

**An Act to amend certain Acts in
respect of Planning and related Matters**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraphs 141, 142, 143 and 144 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 302, s. 210,
pars. 141-
144, re-
enacted;
pars. 144a,
144b, enacted

141. For prohibiting or regulating signs and other advertising devices or any class or classes thereof and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway.

Signs

142. A by-law passed under paragraph 141 may specify a time period during which signs or other advertising devices in a defined class may stand or be displayed in the municipality and may require the removal of such signs or other advertising devices which continue to stand or be displayed after such time period has expired.

Temporary
signs

143. A by-law passed under paragraph 141 may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality.

Production of
plans

- (a) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration.

Pulling
down, etc.,
of signs
unlawfully
erected

144. A by-law passed under paragraph 141 may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who,

- (a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or
- (b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies.

Notice

144a. Before passing a by-law under paragraph 141,

- (a) notice of the proposed by-law and notice of the council meeting at which the proposed by-law is to be discussed shall be published once at least fourteen days prior to the council meeting indicated in the notice and in the case of a municipality where there is no newspaper having general circulation in the municipality, shall be posted in a conspicuous place in the municipality for at least fourteen days prior to the council meeting indicated in the notice; and
- (b) the council shall hear any person who before the council meeting indicated in the notice applies to be heard.

Minor
variances

144b. The council may, upon the application of any person, authorize minor variances from the provisions of a by-law passed under paragraph 141, provided that in the opinion of the council the general intent and purpose of the by-law are maintained.

Saving
R.S.O. 1980,
c. 302

(2) No by-law passed under paragraph 141 of section 210 of the *Municipal Act*, as it existed on the day before the day this section comes into force, that prohibits or regulates signs or other advertising devices, applies so as to require a sign or advertising device that is lawfully erected or displayed on the day this section comes into force, but that does not comply with the by-law, to be made to comply with the by-law or to be removed by the owner or the owner of the land on which it is situate, so long as the sign or advertising device is not in any way substan-

tially altered, provided that the maintenance and repair of the sign or advertising device or a change in the message displayed shall be deemed not to in itself constitute an alteration.

(3) No by-law passed under paragraph 141 of section 210 of the *Municipal Act*, as re-enacted by subsection 1 (1) of this Act, that prohibits or regulates signs or other advertising devices, applies to a sign or advertising device that is lawfully erected or displayed on the day the by-law comes into force, so long as the sign or advertising device is not in any way substantially altered, provided that the maintenance and repair of the sign or advertising device or a change in the message displayed shall be deemed not to in itself constitute an alteration.

Non-application to lawfully erected signs, etc.
R.S.O. 1980, c. 302

(4) Section 210 of the said Act is amended by adding thereto the following paragraphs:

Idem, s. 210, amended

162. For regulating the size and strength of frame, wooden, brick, stone, cement and concrete walls, and of the foundations and foundation walls, beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all such buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees and for the issuing of a permit certifying to such approval without which permit no building or structure may be erected, altered or repaired, and for authorizing the refusal of a permit for any building or structure that if constructed would be contrary to the provisions of any by-law of the municipality or of a by-law of any other municipality, including a county and a metropolitan municipality, or the laws of Ontario or Canada in force in the municipality.

Size and strength of walls, etc., and production of plans

163. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be considered necessary for ascertaining such levels.

Ascertaining levels of cellars, etc.

164. For fixing grade lines of streets; for providing that the levels of cellars and basements on such streets shall bear a relation, fixed in the by-law, to such lines; and for requiring that a ground or block plan of any proposed building be deposited with an officer named in the by-law, before the issue of a building permit for such building, showing the levels of the cellars and basements in relation to the grade lines fixed in the by-law.

Establishing grades of streets and levels of basements

Regulation,
etc., of
heating plant
and
equipment
R.S.O. 1980,
c. 46

165. For regulating, controlling and inspecting, subject to the *Boilers and Pressure Vessels Act*, all hot air, hot water and steam heating plants and equipment, or any classes thereof, and the installation thereof; and for requiring the production of plans of all installations of such plant and equipment and alterations or additions thereto, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for the issuing of a permit certifying to such approval and for requiring that without such permit no such plant and equipment may be installed, altered or added to.

Regulating
removal and
wrecking of
buildings and
structures

166. For regulating the removing or wrecking of buildings and structures and the spraying thereof during such work so as to prevent dust or rubbish arising therefrom, and for the issuing of a permit for the removing, wrecking or partial removing or wrecking of buildings and structures without which no building or structure may be removed or wrecked or partially removed or wrecked, and for fixing and charging fees for such permit.

Production of
plans of
public
buildings,
etc.

R.S.O. 1980,
c. 51

167. For requiring the production of the plans of hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement or for public meetings now erected or which it is proposed to erect, and for prohibiting the use or erection of them until the provisions of any regulation under the *Building Code Act* is complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

Owner's
liability to
repair land in
front of
commercial
buildings

168. For requiring every owner of land upon which there is erected a building used or intended to be used for commercial purposes to keep in repair any portion of his land lying between the building and the street line that is used by the public as part of the sidewalk on such street.

Repairs to
existing
buildings

169. For regulating the repairing or alteration of roofs or the external walls of existing buildings so that the buildings may be as nearly as practicable fire-proof.

Pulling
down, etc.,
of buildings
illegally
erected

170. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling down
buildings in
ruinous state

171. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise, is in an unsafe condition as regards danger from fire or risk of accident.

172. For regulating the construction of cellars, sinks, cess-pools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them.

Construction of cellars, drains, etc.

173. For requiring,

Control of termites

- i. any building or structure or any class or classes thereof heretofore or hereafter erected or any additions thereto to be rendered resistant to infestation by termites and other wood-destroying insects,
- ii. the repair of any part of any building or structure or any class or classes thereof that has been damaged by termites or other wood-destroying insects,
- iii. the removal and destruction or in the alternative the separation from the soil by an approved non-cellulose barrier of all wooden poles, tree-stumps or other wooden or cellulose material that is not part of a building if they are certified by the building inspector or commissioner to be infested by termites or other wood-destroying insects,
- iv. the removal and destruction or in the alternative the separation from the soil by an approved non-cellulose barrier of all wooden poles, tree-stumps or other wooden or cellulose material that is not part of a building which is or may become a hazard of infestation or re-infestation to a building or structure of any class or classes thereof rendered resistant to infestation under subparagraph i or repaired under subparagraph ii.

174. For providing for the payment by the municipality of not more than one-half of the cost,

Cost of control of termites and repairs

- i. of repairing any damage done to any building or structure or any class or classes thereof by termites or other wood-destroying insects, and
- ii. of rendering resistant to infestation by termites or other wood-destroying insects any building or structure or any class or classes thereof that were erected before a by-law is passed under this paragraph,

and for providing for the making of loans to the owners of such buildings or structures to pay for the whole or any part of the cost of such repairs or of the rendering resistant to such infesta-

tion, less any amount paid by the municipality, on such terms and conditions as the council may prescribe.

- (a) The amount of any loan made under a by-law passed under this paragraph, or a predecessor hereof, together with interest at a rate to be determined by council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.
- (b) A certificate of the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this paragraph, or a predecessor hereof, including the rate of interest thereon, together with a description sufficient to identify the land in respect of which the loan has been made, shall be registered in the proper land registry office against the land upon proof by affidavit of the signature of the clerk, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate of the clerk showing such repayment shall be similarly registered, and thereupon the lands are freed from all liability with reference thereto.

**Idem, ss.
210a-210c,
enacted**

(5) The said Act is amended by adding thereto the following sections:

**Township
by-laws**

210a. A by-law passed by the council of a township under any of paragraphs 162 to 174 of section 210 may be made applicable to the township or one or more defined areas thereof as set out in the by-law.

**Building
inspector**

210b. The council of a county, including the County of Oxford, or a regional or district municipality may enter into an agreement with one or more local municipalities for the appointment by the county, regional or district council of a building inspector for the administration of by-laws passed under paragraphs 162 to 174 of section 210 by such local municipalities and for charging such municipalities the whole or part of the cost of such building inspector.

**Deemed
county for
purposes of
R.S.O. 1980,
c. 51**

210c. The County of Oxford, The District Municipality of Muskoka and every regional municipality, except The Regional Municipality of Sudbury and The Regional Municipality of Haldimand-Norfolk, shall be deemed to be a county for the purposes of the *Building Code Act*.

2. Sections 96, 97, 98, 99 and 100 of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 439, s. 96,
re-enacted;
ss. 97-100,
repealed

96. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

Official plan
for Regional
Area

3. Sections 100, 101, 102 and 103 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 438, s. 100,
re-enacted;
ss. 101-103,
repealed

100. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

Official plan
for Regional
Area

4. Sections 96, 97, 98 and 99 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 443, s. 96,
re-enacted;
ss. 97-99,
repealed

96. The Regional Council shall prepare, adopt and forward to the Minister of Municipal Affairs and Housing for approval, an official plan for the Regional Area.

Official plan

5. Section 27 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 441, s. 27,
re-enacted

27.—(1) In addition to the powers given to the Regional Council under the *Planning Act*, 1983, the Regional Council may exercise all the powers of a local municipality under that Act and no area municipality shall exercise any powers under the *Planning Act*, 1983.

Powers of
Regional
Council
under
1983, c. 1

(2) The Regional Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act* and no council of an area municipality shall exercise any such powers.

Powers of
Regional
Council
under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of the *Building Code Act*.

Deemed
municipality
for purposes
of R.S.O.
1980, c. 51

(4) Where the Regional Corporation has incurred a cost under subsection 10 (4) of the *Building Code Act*, the cost may be charged to the area municipality in which the building is situate and the clerk of the area municipality shall add the cost to the

Collection
of costs
under
R.S.O. 1980,
c. 51

collector's roll, collect the cost in like manner as municipal taxes and, when the cost has been collected, pay it to the Regional Corporation.

By-laws
under
R.S.O. 1970,
c. 349,
continued

(5) Every by-law passed under the provisions of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, by a local municipality as it existed on the 31st day of December, 1972, shall continue in force until repealed by the Regional Council.

Official
plan for
Regional
Area

(6) The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 442, s. 95,
re-enacted;
ss. 96, 97,
repealed

6. Sections 95, 96 and 97 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan for
Regional
Area

95. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 440, s. 59,
re-enacted;
ss. 60, 61,
repealed

7. Sections 59, 60 and 61 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan

59. The Regional Council shall prepare, adopt and forward to the Minister of Municipal Affairs and Housing for approval, an official plan for the Regional Area.

R.S.O. 1980,
c. 436, s. 64,
re-enacted;
ss. 65, 66,
repealed

8. Sections 64, 65 and 66 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan for
Regional
Area

64. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 437, s. 75,
re-enacted;
ss. 76, 77,
repealed

9. Sections 75, 76 and 77 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plan for
Regional
Area

75. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

10. Sections 68, 69, 70, 71 and 72 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 434,
ss. 68, 69, 70,
re-enacted;
ss. 71, 72,
repealed

68. All official plans in effect in any part of the Regional Area, on and after the 1st day of January, 1974, remain in effect as official plans but shall be amended forthwith to conform with the official plan adopted by the Regional Council and approved by the Minister.

Official
plans
preserved

69.—(1) Every council of an area municipality shall, at the request of the Regional Council, prepare a plan for the area municipality and forward it to the Regional Council.

Area
municipality
plans

(2) The Regional Council shall, in respect of plans submitted to it under subsection (1),

Powers of
Regional
Council
re plans

(a) adopt the plan as submitted, with or without amendment by the Regional Council, and forward it to the Minister of Municipal Affairs and Housing for approval as an official plan; or

(b) reject the plan.

70. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

Official
plan for
Regional
Area

11. Sections 51, 52, 53, 54 and 55 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 435,
ss. 51-55,
re-enacted

51.—(1) In addition to the powers given to the Regional Council under the *Planning Act*, 1983, the Regional Council may exercise all the powers of a local municipality under that Act and no area municipality, except as provided in this Part, shall exercise any powers under the *Planning Act*, 1983.

Powers of
Regional
Council
under
1983, c. 1

(2) The Regional Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act* and no council of an area municipality shall exercise any such powers.

Powers of
Regional
Council
under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

Deemed
municipality
for purposes
of R.S.O.
1980, c. 51

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of the *Building Code Act*.

By-laws
under
R.S.O. 1970,
c. 349,
continued

(4) Every by-law passed under the provisions of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, by a local municipality as it existed on the 31st day of March, 1974, shall continue in force until amended or repealed by the Regional Council.

Collection of
costs under
R.S.O. 1980,
c. 51

52. Where the Regional Corporation has incurred a cost under subsection 10 (4) of the *Building Code Act*, the cost may be charged to the area municipality in which the building is situate, and the clerk of the area municipality shall add the cost to the collector's roll, collect the cost in like manner as municipal taxes and, when the cost has been collected, pay it to the Regional Corporation.

Delegation
of powers
to area
municipi-
palities

53. The Regional Council may delegate, for such period and on such terms and conditions as the Regional Council considers necessary, to the council of any area municipality the authority to exercise such of the powers under sections 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43 and 44 of the *Planning Act, 1983* as the Regional Council may determine.

1983, c. 1

Area
municipality
plans

54. Every council of an area municipality shall, at the request of the Regional Council, prepare and adopt an official plan for the area municipality.

Official
plan for
Regional
Area

55. The Regional Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Regional Area.

R.S.O. 1980,
c. 121,
ss. 51, 52,
re-enacted;
s. 53,
repealed

12. Sections 51, 52 and 53 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Official
plans

51. No area municipality shall exercise any power with respect to the preparation and lodging of official plans under Part III of the *Planning Act, 1983*.

Official
plan for
District
Area

52. The District Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the District Area.

13. Sections 62, 63 and 64 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

R.S.O. 1980,
c. 365,
ss. 62, 63,
re-enacted;
s. 64,
repealed

62.—(1) The County Council may exercise all the powers, including the powers of a local municipality, under the *Planning Act*, 1983 and no area municipality shall, except as provided in subsections (2), (3) and (4), exercise any powers under the *Planning Act*, 1983.

Powers of
County
Council
under
1983, c. 1

(2) The council of each area municipality is deemed to be a committee of adjustment under the *Planning Act*, 1983.

Committee
of
adjustment

(3) The council of an area municipality may exercise the powers provided in section 28, except subsection (11) thereof, sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 45 and 68 of the *Planning Act*, 1983, but in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers, the by-law passed by the County Council shall prevail.

Powers of
area muni-
cipality
councils
under
1983, c. 1

(4) The County Council may exercise any of the powers set out in paragraphs 162 to 174 of section 210 of the *Municipal Act*, and in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers, the by-law passed by the County Council shall prevail.

Powers of
County
Council
under
R.S.O. 1980,
c. 302, s. 210,
pars. 162-174

(5) The County Council may delegate to the council of an area municipality any of its powers in respect of subdivision agreements.

Subdivision
agreements

(6) All official plans in effect in the County on the 31st day of December, 1974 are deemed to be the official plans of the County until such time as they are repealed in whole or in part.

Official
plan
continued

(7) Subsection 53 (1) of the *Planning Act*, 1983 has no application to the County and the County Council may be or may constitute and appoint a land division committee for the purposes of giving consents under the *Planning Act*, 1983.

Appoint-
ment of land
division
committee

63. The County Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the County.

Official
plan for
County

R.S.O. 1980,
c. 314,
ss. 200, 201,
re-enacted;
ss. 202-205,
repealed

14. Sections 200, 201, 202, 203, 204 and 205 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Delegation
to
Executive
Committee
1983, c. 1

200.—(1) Notwithstanding section 5 of the *Planning Act*, 1983, where the Minister has by order made under subsection 4 (1) of the *Planning Act*, 1983 delegated to the Metropolitan Council the Minister's authority to approve an official plan or amendments thereto of an area municipality, the Metropolitan Council may by by-law and subject to such conditions as may have been imposed by the Minister, delegate such authority to the Executive Committee for the period of any summer recess of the Metropolitan Council and upon such terms and conditions as the by-law specifies and the Executive Committee has, in lieu of the Minister, all powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Report to
Metropolitan
Council

(2) The Executive Committee shall report each decision made under any by-law passed under subsection (1) to the Metropolitan Council at the next regular meeting of the Metropolitan Council.

Official
plan for
Metropolitan
Area

201. The Metropolitan Council shall continue to maintain in force with such amendments or revisions as it deems appropriate, an official plan for the Metropolitan Area.

Rights
vested

15. A benefit, right or status conferred upon a person by sections 204 and 205 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as those sections were on the day immediately prior to the coming into force of this Act is vested in the person notwithstanding section 14.

Commence-
ment

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

17. The short title of this Act is the *Planning Statute Law Amendment Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Municipality of Metropolitan Toronto Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTES

SECTION 1. Section 4 of the Act now reads as follows:

- 4.—(1) *In every area municipality, election of candidates for council and for any local board, any members of which are to be elected by ballot by the electors, shall be held in the year 1980 and in every second year thereafter in accordance with the Municipal Elections Act.*
- (2) *The members of council and of such local boards shall hold office for a two-year term and until their successors are elected and the new council or board is organized.*
- (3) *This section applies to members of the Metropolitan Separate School Board.*

The repeal of the section is consequent on the recent amendment to the *Municipal Elections Act* providing for a three-year term of office commencing with the elections to be held in 1982.

SECTION 2. The added subsection permits legal costs to be awarded to a local board of Metro or to any other body established under the Act, despite the fact the counsel who earned the costs was a salaried officer of the local board, other body or of the Metropolitan Corporation itself. The provision is analogous to subsection 98 (5) of the *Municipal Act* permitting costs to be awarded to a municipality under the like circumstances.

SECTION 3. The section proposed to be added deems the Metropolitan Corporation to have always had the authority to pass by-laws providing for the accepting of septic tank waste transported to its sewage works for disposal and to charge for the receipt and disposal of that waste.

BILL 195

1982

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed. s. 4,
repealed
2. Section 24 of the said Act is amended by adding thereto the following subsection: s. 24,
amended

(1a) Notwithstanding any other Act, in any proceeding to which a local board of the Metropolitan Corporation or any other body established by or under this Act is a party, costs adjudged to the local board or other body shall not be disallowed or reduced merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of such board or other body or of the Metropolitan Corporation performing such services in the discharge of his duty and remunerated therefor by his salary or for that or for any other reason was not entitled to recover any costs from the local board or other body in respect of the services so rendered and the costs recovered by or on behalf of the local board or other body in any such case shall be paid into the general funds of the local board or other body or of the Metropolitan Corporation. Costs of
local board,
etc., in any
proceeding

3. The said Act is amended by adding thereto the following section: s. 65a,
enacted

65a.—(1) The Metropolitan Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Metropolitan Corporation and that is transported to those sewage works for receipt and disposal by the Metropolitan Corporation. Disposal of
liquid or
solid
material

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be Terms and
conditions

received and disposed of, and fix charges for receiving and disposing of the material and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Metropolitan Corporation.

s. 148 (2, 3),
re-enacted

4. Subsections 148 (2) and (3) of the said Act are repealed and the following substituted therefor:

Term of
office

(2) The appointed members of the Library Board shall be appointed for a term of office not exceeding the term of office of the council or board that appointed them and shall hold office until their successors are appointed.

Time of
appointment

(3) Commencing in the year 1982, the appointments shall be made at the first meeting of each such council or board, as the case may be, following elections in the area municipality or as soon thereafter as possible.

Term of
office of
present
members of
Library Board
R.S.O. 1980,
c. 314

5. The appointed members of the Library Board who hold office on the day this section comes into force cease to hold office on the day their successors are appointed under subsection 148 (3) of the *Municipality of Metropolitan Toronto Act*, as re-enacted by section 4 of this Act.

s. 209 (3),
(b, c),
re-enacted

- 6.—(1) Clauses 209 (3) (b) and (c) of the said Act are repealed and the following substituted therefor:

(b) for the purposes of trade centres and trade and agricultural fairs such as, but not limited to, the annual Canadian National Exhibition and Royal Agricultural Winter Fair;

(c) for the holding of displays, agricultural activities, sporting events, athletic contests, public entertainments and meetings.

s. 209 (7),
repealed

- (2) Subsection 209 (7) of the said Act is repealed.

s. 209 (12),
re-enacted

- (3) Subsection 209 (12) of the said Act is repealed and the following substituted therefor:

Agreements

(12) The Metropolitan Corporation may enter into agreements with The Board of Governors of Exhibition Place, the Canadian National Exhibition Association, the Royal Agricultural Winter Fair or other persons respecting the use, operation and maintenance of such assumed lands and any buildings or structures on such assumed lands, and any other matter or thing that the Metropolitan Council considers desirable for the full and effec-

SECTION 4. Subsections 148 (2) and (3) of the Act now read as follows:

- (2) *Appointments of members of the Library Board shall be made in the month of January, 1967, and in the month of January in every third year thereafter.*
- (3) *The appointed members of the Library Board shall hold office for a three-year term and until their successors are appointed.*

The amendments reflect the change in the time municipal councils take office and provide the term of office of appointed members of the Library Board be co-extensive with the term of office of the council or board whose appointees they are.

SECTION 5. This substantive section provides members of the Library Board now holding office will cease to do so when their successors are appointed following the 1982 elections.

SECTION 6.—Subsection 1. Subsection 209 (3) of the Act sets out the uses to which the Metropolitan Corporation is to put Exhibition Park. Clauses (b) and (c) of that subsection now read as follows:

- (3) *Such assumed lands shall be used,*
 - (b) for the purposes of trade and agricultural fairs;*
 - (c) for the holding of displays, sporting events, public entertainments and meetings.*

As re-enacted, the uses are expanded in the manner indicated.

Subsection 2. The subsection proposed to be repealed exempts Exhibition Park lands from municipal taxation so long as the lands are owned by the Metropolitan Corporation and used for the purposes of the C.N.E. Association. By new subsection 210 (10) of the Act, the Board of Governors is a local board of the Metropolitan Corporation and tax exemption provisions applicable to a local board will apply. Hence the existing tax exemption is no longer needed.

Subsection 3. Subsection 209 (12) of the Act now authorizes the Metropolitan Corporation to enter into agreements with the C.N.E. Association, the Royal Agricultural Winter Fair and other bodies respecting the use of Exhibition Place. As proposed to be re-enacted, the subsection includes a reference to The Board of Governors of Exhibition Place, the establishment of which is provided for in section 8 of the Bill.

Subsection 4. Subsection 209 (13) of the Act authorizes the Metropolitan Corporation to make grants to erect buildings and structures for the use of the C.N.E. Association. A general power to make grants is conferred under section 113 of the *Municipal Act* and the specific authority is, therefore, deemed unnecessary.

Subsection 5. Subsection 209 (14) of the Act empowers the Metropolitan Corporation to appoint the C.N.E. Association as its agent to carry out any of the powers of the Corporation under section 209. As re-enacted, the subsection adds The Board of Governors of Exhibition Place as a body that the Metropolitan Corporation may appoint as such agent.

SECTION 7. Section 210 of the Act now provides for the establishment of the Exhibition Stadium Corporation and sets out its powers and duties. The re-enacted section establishes in its place a corporation under the name "The Board of Governors of Exhibition Place". (See new section 210a for the dissolution of the Exhibition Stadium Corporation and of its Board of Management and the vesting of the assets and liabilities of that Corporation in the new Board of Governors of Exhibition Place). The method of appointment of the Board of Governors is set out and its powers specified.

New section 210a dissolves the Exhibition Stadium Corporation and its Board of Management.

New section 210b provides for the employment by the new Board of Governors of certain employees of the Canadian National Exhibition Association and of the Exhibition Stadium Corporation and provides for the protection of their pension benefits, holidays, sick leave credits and the like.

tive use of such assumed lands, buildings or structures for the purposes set out in subsection (3).

(4) Subsection 209 (13) of the said Act is repealed.

s. 209 (13),
repealed

(5) Subsection 209 (14) of the said Act is repealed and the following substituted therefor:

s. 209 (14),
re-enacted

(14) The Metropolitan Corporation may enter into agreements with The Board of Governors of Exhibition Place or the Canadian National Exhibition Association appointing the Board or the Association as its agent to carry out any of the powers of the Metropolitan Corporation under this section, and, upon the execution of any such agreement, the Board or the Association, as the case may be, is authorized to exercise such powers, subject to such restrictions as may be set out in the agreement.

Idem

7. Section 210 of the said Act is repealed and the following substituted therefor:

s. 210,
re-enacted;
ss. 210a, 210b,
enacted

210.—(1) In this section and in sections 210a and 210b,

Inter-
pretation

(a) “Board” means the Board of Governors established under subsection (2);

(b) “Exhibition Place” means those lands vested in the Metropolitan Corporation under subsection 209 (1), including any buildings or structures erected thereon;

(c) “Association” means the Canadian National Exhibition Association.

(2) There is hereby established a corporation without share capital under the name “The Board of Governors of Exhibition Place” having as its purpose and objects the operation, management and maintenance of Exhibition Place.

Board
established

(3) The *Corporations Act* does not apply to the Board.

R.S.O. 1980,
c. 95,
not to apply

(4) The Board shall consist of fourteen members composed of,

Composition
of Board

(a) eleven members appointed by the Metropolitan Council composed of,

(i) three members of the Metropolitan Council,

(ii) three members nominated by the Association,
and

(iii) five members who are not members of the Metropolitan Council;

- (b) the chairman of the Metropolitan Council;
- (c) the mayor of the City of Toronto; and
- (d) the president of the Association.

Term of
office

(5) The members of the Board appointed by the Metropolitan Council under subclause (4) (a) (i) shall hold office for a term not exceeding the term of the Council that appointed them and until their successors are appointed and the members of the Board appointed under subclauses (4) (a) (ii) and (iii) shall hold office for a term of three years and until their successors are appointed and all such members shall be eligible for reappointment.

Chairman,
vice-chairman,
quorum

(6) The Board shall elect a chairman from among its members and may elect a vice-chairman, and a majority of the members of the Board constitutes a quorum for the transaction of business at meetings of the Board.

Powers of
Board

(7) The Board shall have,

- (a) a head office in the Metropolitan Area;
- (b) a corporate seal upon which its corporate name shall appear;
- (c) capacity to sue and be sued in its own name;
- (d) capacity to enter into contracts, including contracts of employment, in its own name; and
- (e) all powers incidental or conducive to the attainment of the purpose and objects of the Board set out in subsection (2).

By-laws

(8) The Board may enact by-laws regulating its proceedings and providing for the conduct and management of its affairs.

General
policies

(9) The Metropolitan Council may by by-law establish general policies to be followed in the operation, management and maintenance of Exhibition Place.

Local board

(10) The Board is a local board of the Metropolitan Corporation.

Deemed
society under
R.S.O. 1980,
c. 14, for
grant purposes

(11) The Board for purposes of receiving grants shall be deemed to be a society under the *Agricultural Societies Act* and the provisions of that Act respecting grants apply to the Board.

(12) The Metropolitan Corporation shall be entitled to receive any surplus resulting from the operations of the Board and shall be responsible for any deficit incurred by the Board. Surplus or deficit

(13) The Board may, with the prior approval of the Metropolitan Council, borrow money for the purpose of acquiring working capital, but nothing in this subsection authorizes the Board to issue debentures. Borrowing powers

(14) The Board shall submit to the Metropolitan Council its budget for the current year at the time and in the form prescribed by the Metropolitan Council, and the budget shall be subject to approval, with or without modification, by the Metropolitan Council. Budget

(15) After the approval of the Board's annual budget by the Metropolitan Council any and all spending by the Board shall be in accordance with the approved budget in such level of detail as the Metropolitan Council determines. Spending in accordance with budget

(16) The Board may enter into agreements with the Association for the use of any of the Board's employees or equipment by the Association for purposes of carrying out an agreement entered into by the Association with the Metropolitan Corporation under subsection 209 (12) or (14). Agreements

(17) A member of the Board does not have an indirect pecuniary interest, for the purposes of the *Municipal Conflict of Interest Act*, in respect of a contract, proposed contract or other matter between the Board and the Association by reason only of the member being also a member or officer of the Association. Where no indirect pecuniary interest
R.S.O. 1980, c. 305

210a.—(1) Upon the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place, the Exhibition Stadium Corporation and The Board of Management of the Exhibition Stadium Corporation are dissolved and all the assets and liabilities of that Corporation are vested in the Board and the Board shall stand in the place and stead of the Exhibition Stadium Corporation for all purposes of any agreements to which the Exhibition Stadium Corporation was a party. Corporation and Board dissolved

(2) Upon the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place, Agreements

(a) all previous agreements entered into by the Metropolitan Corporation with the Association under subsections

209 (12) and (14), or the predecessors thereof, are hereby declared to be null and void and the rights and obligations arising from those agreements are hereby extinguished;

(b) the following assets that constitute the reserves of the Association are vested in the Metropolitan Corporation:

1. Reserve for Workmen's Compensation.
2. Prize Guarantee Fund.
3. Reserve for rehabilitation of buildings.
4. Reserve for inventory of materials and supplies;

(c) all of the assets of the Association, other than those referred to in clause (b), are vested in the Board, with the exception of memorabilia, archives, souvenirs, medals, art works and other similar items;

(d) all agreements entered into by the Exhibition Stadium Corporation with the Association and assumed by the Board under subsection (1), are hereby declared to be null and void and the rights and obligations arising from those agreements are hereby extinguished;

(e) the Board shall stand in the place and stead of the Association for all purposes of any agreement, except agreements to which clauses (a) or (d) apply, heretofore entered into by the Association in the exercise of its management, control or operation of Exhibition Place; and

(f) the Metropolitan Corporation shall be responsible for any liability incurred by the Board in respect of any agreement to which clause (e) applies.

Offer of
employment

210b.—(1) The Board shall offer to employ,

(a) every person who, on the 4th day of October, 1982, is employed by the Association as a permanent employee in connection with the operation, management and maintenance of Exhibition Place and who continues to be so employed until the date of the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place; and

- (b) every person who, on the 15th day of March, 1982, is employed by the Exhibition Stadium Corporation and who continues to be so employed until the coming into force of an agreement, between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place.

(2) Any person who accepts employment under subsection (1) shall be entitled to receive a wage or salary for the one-year period next following the commencement of his employment with the Board of not less than he was receiving on the 4th day of October, 1982. Wages and salary

(3) Where any person accepts employment under subsection (1), Pension benefits

- (a) he shall continue as, or become a member of, the Ontario Municipal Employees Retirement System, as the case requires, on his transfer date; and

- (b) with respect to pension benefits accrued prior to the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place, his employment with the Association or with the Exhibition Stadium Corporation, as the case may be, shall be deemed to be employment with the Board.

(4) The Board shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 4th day of October, 1982. Participation in O.M.E.R.S.

(5) Any sick leave credits standing on the day an agreement is entered into between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place to the credit of any person who accepts employment under subsection (1) shall be placed to the credit of such employee in any sick leave credit plan established by the Board. Sick leave

(6) Any person who accepts employment under subsection (1) shall be entitled during 1983 to holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the Association or the Exhibition Stadium Corporation, as the case may be. Holidays

(7) Nothing in this section prevents the Board from terminating the employment of an employee for cause. Termination of employment

s. 227 (22),
amended

8. Subsection 227 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8".

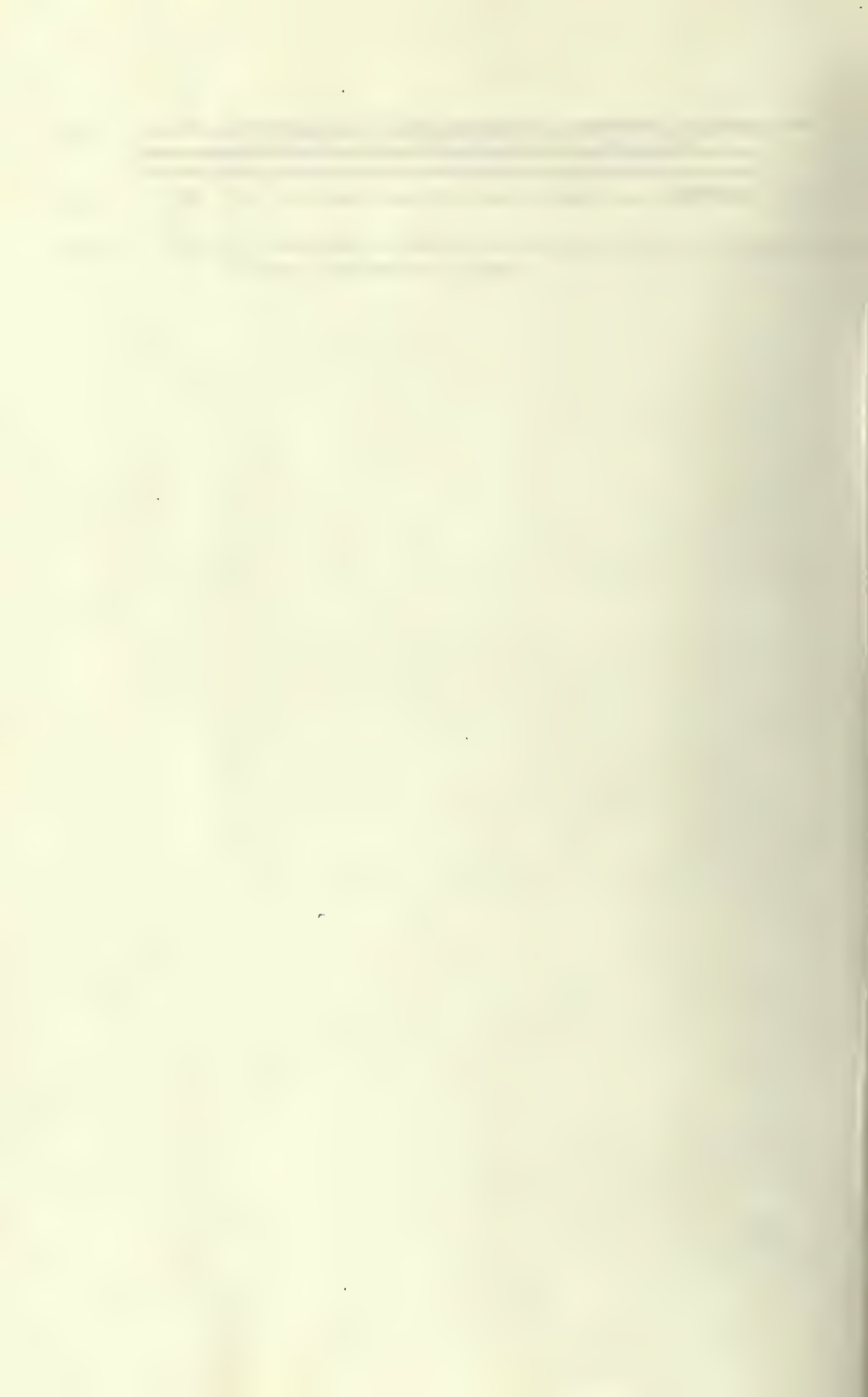
Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1982*.

SECTION 8. The effect of the amendment is to increase from 5 per cent to 8 per cent the interest rate to be allocated to the specific sum to be raised in each year in respect of sinking fund debentures so as to provide for the principal payment due at maturity.



An Act to amend the Municipality
of Metropolitan Toronto Act

1st Reading

November 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

Bill 195

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading November 29th, 1982

2nd Reading February 14th, 1983

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

Section 1. Section 4 of the Act now reads as follows:

- 4.—(1) *In every area municipality, election of candidates for council and for any local board, any members of which are to be elected by ballot by the electors, shall be held in the year 1980 and in every second year thereafter in accordance with the Municipal Elections Act.*
- (2) *The members of council and of such local boards shall hold office for a two-year term and until their successors are elected and the new council or board is organized.*
- (3) *This section applies to members of the Metropolitan Separate School Board.*

The repeal of the section is consequent on the recent amendment to the *Municipal Elections Act* providing for a three-year term of office commencing with the elections to be held in 1982.

Section 2. The added subsection permits legal costs to be awarded to a local board of Metro or to any other body established under the Act, despite the fact the counsel who earned the costs was a salaried officer of the local board, other body or of the Metropolitan Corporation itself. The provision is analogous to subsection 98 (5) of the *Municipal Act* permitting costs to be awarded to a municipality under the like circumstances.

Section 3. The section proposed to be added deems the Metropolitan Corporation to have always had the authority to pass by-laws providing for the accepting of septic tank waste transported to its sewage works for disposal and to charge for the receipt and disposal of that waste.

Section 4.—Subsection 1. Subsection 209 (3) of the Act sets out the uses to which the Metropolitan Corporation is to put Exhibition Park. Clauses (b) and (c) of that subsection now read as follows:

(3) *Such assumed lands shall be used,*

(b) for the purposes of trade and agricultural fairs;

(c) for the holding of displays, sporting events, public entertainments and meetings.

As re-enacted, the uses are expanded in the manner indicated.

Subsection 2. The subsection proposed to be repealed exempts Exhibition Park lands from municipal taxation so long as the lands are owned by the Metropolitan Corporation and used for the purposes of the C.N.E. Association. By new subsection 210 (10) of the Act, the Board of Governors is a local board of the Metropolitan Corporation and tax exemption provisions applicable to a local board will apply. Hence the existing tax exemption is no longer needed.

Subsection 3. Subsection 209 (12) of the Act now authorizes the Metropolitan Corporation to enter into agreements with the C.N.E. Association, the Royal Agricultural Winter Fair and other bodies respecting the use of Exhibition Place. As proposed to be re-enacted, the subsection includes a reference to The Board of Governors of Exhibition Place, the establishment of which is provided for in section 5 of the Bill.

Subsection 4. Subsection 209 (13) of the Act authorizes the Metropolitan Corporation to make grants to erect buildings and structures for the use of the C.N.E. Association. A general power to make grants is conferred under section 113 of the *Municipal Act* and the specific authority is, therefore, deemed unnecessary.

Subsection 5. Subsection 209 (14) of the Act empowers the Metropolitan Corporation to appoint the C.N.E. Association as its agent to carry out any of the powers of the Corporation under section 209. As re-enacted, the subsection adds The Board of Governors of Exhibition Place as a body that the Metropolitan Corporation may appoint as such agent.

Section 5. Section 210 of the Act now provides for the establishment of the Exhibition Stadium Corporation and sets out its powers and duties. The re-enacted section establishes in its place a corporation under the name "The Board of Governors of Exhibition Place". (See new section 210a for the dissolution of the Exhibition Stadium Corporation and of its Board of Management and the vesting of the assets and liabilities of that Corporation in the new Board of Governors of Exhibition Place). The method of appointment of the Board of Governors is set out and its powers specified.

New section 210a dissolves the Exhibition Stadium Corporation and its Board of Management.

New section 210b provides for the employment by the new Board of Governors of certain employees of the Canadian National Exhibition Association and of the Exhibition Stadium Corporation and provides for the protection of their pension benefits, holidays, sick leave credits and the like.

Section 6. The effect of the amendment is to increase from 5 per cent to 8 per cent the interest rate to be allocated to the specific sum to be raised in each year in respect of sinking fund debentures so as to provide for the principal payment due at maturity.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE
COMMISSIONER OF THE
BUREAU OF CHEMISTRY
FOR THE YEAR 1900

BY
J. H. MANNING
CHIEF OF BUREAU

CHICAGO
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DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILL.

Bill 195

1982

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed. s. 4,
repealed

2. Section 24 of the said Act is amended by adding thereto the following subsection: s. 24,
amended

(1a) Notwithstanding any other Act, in any proceeding to which a local board of the Metropolitan Corporation or any other body established by or under this Act is a party, costs adjudged to the local board or other body shall not be disallowed or reduced merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of such board or other body or of the Metropolitan Corporation performing such services in the discharge of his duty and remunerated therefor by his salary or for that or for any other reason was not entitled to recover any costs from the local board or other body in respect of the services so rendered and the costs recovered by or on behalf of the local board or other body in any such case shall be paid into the general funds of the local board or other body or of the Metropolitan Corporation.

Costs of local
board, etc.,
in any
proceeding

3. The said Act is amended by adding thereto the following section: s. 65a,
enacted

65a.—(1) The Metropolitan Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Metropolitan Corporation and that is transported to those sewage works for receipt and disposal by the Metropolitan Corporation.

Disposal of
liquid or solid
material

Terms and
conditions

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Metropolitan Corporation.

s. 209 (3),
(b, c),
re-enacted

4.—(1) Clauses 209 (3) (b) and (c) of the said Act are repealed and the following substituted therefor:

(b) for the purposes of trade centres and trade and agricultural fairs such as, but not limited to, the annual Canadian National Exhibition and Royal Agricultural Winter Fair;

(c) for the holding of displays, agricultural activities, sporting events, athletic contests, public entertainments and meetings.

s. 209 (7),
repealed

(2) Subsection 209 (7) of the said Act is repealed.

s. 209 (12),
re-enacted

(3) Subsection 209 (12) of the said Act is repealed and the following substituted therefor:

Agreements

(12) The Metropolitan Corporation may enter into agreements with The Board of Governors of Exhibition Place, the Canadian National Exhibition Association, the Royal Agricultural Winter Fair or other persons respecting the use, operation and maintenance of such assumed lands and any buildings or structures on such assumed lands, and any other matter or thing that the Metropolitan Council considers desirable for the full and effective use of such assumed lands, buildings or structures for the purposes set out in subsection (3).

s. 209 (13),
repealed

(4) Subsection 209 (13) of the said Act is repealed.

s. 209 (14),
re-enacted

(5) Subsection 209 (14) of the said Act is repealed and the following substituted therefor:

Idem

(14) The Metropolitan Corporation may enter into agreements with The Board of Governors of Exhibition Place or the Canadian National Exhibition Association appointing the Board or the Association as its agent to carry out any of the powers of the Metropolitan Corporation under this section, and, upon the execution of any such agreement, the Board or the Association, as the case may be, is authorized to exercise such powers, subject to such restrictions as may be set out in the agreement.

5. Section 210 of the said Act is repealed and the following substituted therefor:

s. 210,
re-enacted;
ss. 210a,
210b,
enacted

210.—(1) In this section and in sections 210a and 210b,

Interpre-
tation

- (a) “Association” means the Canadian National Exhibition Association;
- (b) “Board” means the Board of Governors established under subsection (2);
- (c) “Exhibition Place” means those lands vested in the Metropolitan Corporation under subsection 209 (1), including any buildings or structures erected thereon.

(2) There is hereby established a corporation without share capital under the name “The Board of Governors of Exhibition Place” having as its purpose and objects the operation, management and maintenance of Exhibition Place.

Board
established

(3) The *Corporations Act* does not apply to the Board.

R.S.O. 1980,
c. 95,
not to apply


(4) The Board shall consist of fourteen members composed of,

Composition
of Board

- (a) eleven members appointed by the Metropolitan Council composed of,
 - (i) three members of the Metropolitan Council,
 - (ii) three members nominated by the Association, and
 - (iii) five members who are not members of the Metropolitan Council;
- (b) the chairman of the Metropolitan Council;
- (c) the mayor of the City of Toronto; and
- (d) the president of the Association.

➡
(5) The members of the Board appointed by the Metropolitan Council under clause (4) (a) shall hold office for a term not exceeding the term of the Council that appointed them and

Term of
office

until their successors are appointed, and all such members are eligible for reappointment. 

Chairman,
vice-
chairman,
quorum

(6) The Board shall elect a chairman from among its members and may elect a vice-chairman, and a majority of the members of the Board constitutes a quorum for the transaction of business at meetings of the Board.

Powers of
Board

(7) The Board shall have,

- (a) a head office in the Metropolitan Area;
- (b) a corporate seal upon which its corporate name shall appear;
- (c) capacity to sue and be sued in its own name;
- (d) capacity to enter into contracts, including contracts of employment, in its own name; and
- (e) all powers incidental or conducive to the attainment of the purpose and objects of the Board set out in subsection (2).

By-laws

(8) The Board may enact by-laws regulating its proceedings and providing for the conduct and management of its affairs.

General
policies

(9) The Metropolitan Council may by by-law establish general policies to be followed in the operation, management and maintenance of Exhibition Place.

Local board

(10) The Board is a local board of the Metropolitan Corporation.

Deemed
society under
R.S.O. 1980,
c. 14, for
grant
purposes
Surplus or
deficit

(11) The Board for purposes of receiving grants shall be deemed to be a society under the *Agricultural Societies Act* and the provisions of that Act respecting grants apply to the Board.

(12) The Metropolitan Corporation shall be entitled to receive any surplus resulting from the operations of the Board and shall be responsible for any deficit incurred by the Board.

Borrowing
powers

(13) The Board may, with the prior approval of the Metropolitan Council, borrow money for the purpose of acquiring working capital, but nothing in this subsection authorizes the Board to issue debentures.

Budget

(14) The Board shall submit to the Metropolitan Council its budget for the current year at the time and in the form pre-

scribed by the Metropolitan Council, and the budget shall be subject to approval, with or without modification, by the Metropolitan Council.

(15) After the approval of the Board's annual budget by the Metropolitan Council any and all spending by the Board shall be in accordance with the approved budget in such level of detail as the Metropolitan Council determines.

Spending in
accordance
with budget

(16) The Board may enter into agreements with the Association for the use of any of the Board's employees or equipment by the Association for purposes of carrying out an agreement entered into by the Association with the Metropolitan Corporation under subsection 209 (12) or (14).

Agreements

(17) A member of the Board does not have an indirect pecuniary interest, for the purposes of the *Municipal Conflict of Interest Act, 1983*, in respect of a contract, proposed contract or other matter between the Board and the Association by reason only of the member being also a member or officer of the Association.

Where no
indirect
pecuniary
interest
1983, c....

210a.—(1) Upon the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place, the Exhibition Stadium Corporation and The Board of Management of the Exhibition Stadium Corporation are dissolved and all the assets and liabilities of that Corporation are vested in the Board and the Board shall stand in the place and stead of the Exhibition Stadium Corporation for all purposes of any agreements to which the Exhibition Stadium Corporation was a party.

Corporation
and Board
dissolved

(2) Upon the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place,

Agreements

- (a) all previous agreements entered into by the Metropolitan Corporation with the Association under subsections 209 (12) and (14), or the predecessors thereof, are hereby declared to be null and void and the rights and obligations arising from those agreements are hereby extinguished;
- (b) the following assets that constitute the reserves of the Association are vested in the Metropolitan Corporation:
 - 1. Reserve for Workmen's Compensation.

2. Prize Guarantee Fund.
 3. Reserve for rehabilitation of buildings.
 4. Reserve for inventory of materials and supplies;
- (c) all of the assets of the Association, other than those referred to in clause (b), are vested in the Board, with the exception of memorabilia, archives, souvenirs, medals, art works and other similar items;
 - (d) all agreements entered into by the Exhibition Stadium Corporation with the Association and assumed by the Board under subsection (1), are hereby declared to be null and void and the rights and obligations arising from those agreements are hereby extinguished;
 - (e) the Board shall stand in the place and stead of the Association for all purposes of any agreement, except agreements to which clauses (a) or (d) apply, heretofore entered into by the Association in the exercise of its management, control or operation of Exhibition Place; and
 - (f) the Metropolitan Corporation shall be responsible for any liability incurred by the board in respect of any agreement to which clause (e) applies.

Offer of
employment

210b.—(1) The Board shall offer to employ,

- (a) every person who, on the 4th day of October, 1982, is employed by the Association as a permanent employee in connection with the operation, management and maintenance of Exhibition Place and who continues to be so employed until the date of the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place; and
- (b) every person who, on the 15th day of March, 1982, is employed by the Exhibition Stadium Corporation and who continues to be so employed until the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place.

(2) Any person who accepts employment under subsection (1) shall be entitled to receive a wage or salary for the one-year period next following the commencement of his employment with the Board of not less than he was receiving on the 4th day of October, 1982.

Wages and
salary

(3) Where any person accepts employment under subsection (1),

Pension
benefits

(a) he shall continue as, or become a member of, the Ontario Municipal Employees Retirement System, as the case requires, on his transfer date; and

(b) with respect to pension benefits accrued prior to the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place, his employment with the Association or with the Exhibition Stadium Corporation, as the case may be, shall be deemed to be employment with the Board.

(4) The Board shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 4th day of October, 1982.

Participation
in
O.M.E.R.S.

(5) Any sick leave credits standing on the day an agreement is entered into between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place to the credit of any person who accepts employment under subsection (1) shall be placed to the credit of such employee in any sick leave credit plan established by the Board.

Sick leave

(6) Any person who accepts employment under subsection (1) shall be entitled during 1983 to holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the Association or the Exhibition Stadium Corporation, as the case may be.

Holidays

(7) Nothing in this section prevents the Board from terminating the employment of an employee for cause.

Termination
of
employment

6. Subsection 227 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8".

s. 227 (22),
amended

7. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

8. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*.

Bill 195

*(Chapter 14
Statutes of Ontario, 1983)*

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	November 29th, 1982
<i>2nd Reading</i>	February 14th, 1983
<i>3rd Reading</i>	February 15th, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 195

1982

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed. s. 4,
repealed

2. Section 24 of the said Act is amended by adding thereto the following subsection: s. 24,
amended

(1a) Notwithstanding any other Act, in any proceeding to which a local board of the Metropolitan Corporation or any other body established by or under this Act is a party, costs adjudged to the local board or other body shall not be disallowed or reduced merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of such board or other body or of the Metropolitan Corporation performing such services in the discharge of his duty and remunerated therefor by his salary or for that or for any other reason was not entitled to recover any costs from the local board or other body in respect of the services so rendered and the costs recovered by or on behalf of the local board or other body in any such case shall be paid into the general funds of the local board or other body or of the Metropolitan Corporation. Costs of local
board, etc.,
in any
proceeding

3. The said Act is amended by adding thereto the following section: s. 65a,
enacted

65a.—(1) The Metropolitan Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Metropolitan Corporation and that is transported to those sewage works for receipt and disposal by the Metropolitan Corporation. Disposal of
liquid or solid
material

Terms and
conditions

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Metropolitan Corporation.

s. 209 (3),
(b, c),
re-enacted

4.—(1) Clauses 209 (3) (b) and (c) of the said Act are repealed and the following substituted therefor:

(b) for the purposes of trade centres and trade and agricultural fairs such as, but not limited to, the annual Canadian National Exhibition and Royal Agricultural Winter Fair;

(c) for the holding of displays, agricultural activities, sporting events, athletic contests, public entertainments and meetings.

s. 209 (7),
repealed

(2) Subsection 209 (7) of the said Act is repealed.

s. 209 (12),
re-enacted

(3) Subsection 209 (12) of the said Act is repealed and the following substituted therefor:

Agreements

(12) The Metropolitan Corporation may enter into agreements with The Board of Governors of Exhibition Place, the Canadian National Exhibition Association, the Royal Agricultural Winter Fair or other persons respecting the use, operation and maintenance of such assumed lands and any buildings or structures on such assumed lands, and any other matter or thing that the Metropolitan Council considers desirable for the full and effective use of such assumed lands, buildings or structures for the purposes set out in subsection (3).

s. 209 (13),
repealed

(4) Subsection 209 (13) of the said Act is repealed.

s. 209 (14),
re-enacted

(5) Subsection 209 (14) of the said Act is repealed and the following substituted therefor:

Idem

(14) The Metropolitan Corporation may enter into agreements with The Board of Governors of Exhibition Place or the Canadian National Exhibition Association appointing the Board or the Association as its agent to carry out any of the powers of the Metropolitan Corporation under this section, and, upon the execution of any such agreement, the Board or the Association, as the case may be, is authorized to exercise such powers, subject to such restrictions as may be set out in the agreement.

5. Section 210 of the said Act is repealed and the following substituted therefor:

s. 210,
re-enacted;
ss. 210a,
210b,
enacted
Interpre-
tation

210.—(1) In this section and in sections 210a and 210b,

- (a) “Association” means the Canadian National Exhibition Association;
- (b) “Board” means the Board of Governors established under subsection (2);
- (c) “Exhibition Place” means those lands vested in the Metropolitan Corporation under subsection 209 (1), including any buildings or structures erected thereon.

(2) There is hereby established a corporation without share capital under the name “The Board of Governors of Exhibition Place” having as its purpose and objects the operation, management and maintenance of Exhibition Place.

Board
established

(3) The *Corporations Act* does not apply to the Board.

R.S.O. 1980,
c. 95,
not to apply

(4) The Board shall consist of fourteen members composed of,

Composition
of Board

(a) eleven members appointed by the Metropolitan Council composed of,

- (i) three members of the Metropolitan Council,
- (ii) three members nominated by the Association, and
- (iii) five members who are not members of the Metropolitan Council;

(b) the chairman of the Metropolitan Council;

(c) the mayor of the City of Toronto; and

(d) the president of the Association.

(5) The members of the Board appointed by the Metropolitan Council under clause (4) (a) shall hold office for a term not exceeding the term of the Council that appointed them and until their successors are appointed, and all such members are eligible for reappointment.

Term of
office

Chairman,
vice-
chairman,
quorum

(6) The Board shall elect a chairman from among its members and may elect a vice-chairman, and a majority of the members of the Board constitutes a quorum for the transaction of business at meetings of the Board.

Powers of
Board

(7) The Board shall have,

- (a) a head office in the Metropolitan Area;
- (b) a corporate seal upon which its corporate name shall appear;
- (c) capacity to sue and be sued in its own name;
- (d) capacity to enter into contracts, including contracts of employment, in its own name; and
- (e) all powers incidental or conducive to the attainment of the purpose and objects of the Board set out in subsection (2).

By-laws

(8) The Board may enact by-laws regulating its proceedings and providing for the conduct and management of its affairs.

General
policies

(9) The Metropolitan Council may by by-law establish general policies to be followed in the operation, management and maintenance of Exhibition Place.

Local board

(10) The Board is a local board of the Metropolitan Corporation.

Deemed
society under
R.S.O. 1980,
c. 14, for
grant
purposes
Surplus or
deficit

(11) The Board for purposes of receiving grants shall be deemed to be a society under the *Agricultural Societies Act* and the provisions of that Act respecting grants apply to the Board.

(12) The Metropolitan Corporation shall be entitled to receive any surplus resulting from the operations of the Board and shall be responsible for any deficit incurred by the Board.

Borrowing
powers

(13) The Board may, with the prior approval of the Metropolitan Council, borrow money for the purpose of acquiring working capital, but nothing in this subsection authorizes the Board to issue debentures.

Budget

(14) The Board shall submit to the Metropolitan Council its budget for the current year at the time and in the form prescribed by the Metropolitan Council, and the budget shall be subject to approval, with or without modification, by the Metropolitan Council.

(15) After the approval of the Board's annual budget by the Metropolitan Council any and all spending by the Board shall be in accordance with the approved budget in such level of detail as the Metropolitan Council determines.

Spending in
accordance
with budget

(16) The Board may enter into agreements with the Association for the use of any of the Board's employees or equipment by the Association for purposes of carrying out an agreement entered into by the Association with the Metropolitan Corporation under subsection 209 (12) or (14).

Agreements

(17) A member of the Board does not have an indirect pecuniary interest, for the purposes of the *Municipal Conflict of Interest Act, 1983*, in respect of a contract, proposed contract or other matter between the Board and the Association by reason only of the member being also a member or officer of the Association.

Where no
indirect
pecuniary
interest
1983, c. 8

210a.—(1) Upon the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place, the Exhibition Stadium Corporation and The Board of Management of the Exhibition Stadium Corporation are dissolved and all the assets and liabilities of that Corporation are vested in the Board and the Board shall stand in the place and stead of the Exhibition Stadium Corporation for all purposes of any agreements to which the Exhibition Stadium Corporation was a party.

Corporation
and Board
dissolved

(2) Upon the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place,

Agreements

- (a) all previous agreements entered into by the Metropolitan Corporation with the Association under subsections 209 (12) and (14), or the predecessors thereof, are hereby declared to be null and void and the rights and obligations arising from those agreements are hereby extinguished;
- (b) the following assets that constitute the reserves of the Association are vested in the Metropolitan Corporation:

1. Reserve for Workmen's Compensation.
2. Prize Guarantee Fund.
3. Reserve for rehabilitation of buildings.

4. Reserve for inventory of materials and supplies;
- (c) all of the assets of the Association, other than those referred to in clause (b), are vested in the Board, with the exception of memorabilia, archives, souvenirs, medals, art works and other similar items;
 - (d) all agreements entered into by the Exhibition Stadium Corporation with the Association and assumed by the Board under subsection (1), are hereby declared to be null and void and the rights and obligations arising from those agreements are hereby extinguished;
 - (e) the Board shall stand in the place and stead of the Association for all purposes of any agreement, except agreements to which clauses (a) or (d) apply, heretofore entered into by the Association in the exercise of its management, control or operation of Exhibition Place; and
 - (f) the Metropolitan Corporation shall be responsible for any liability incurred by the board in respect of any agreement to which clause (e) applies.

Offer of
employment

210b.—(1) The Board shall offer to employ,

- (a) every person who, on the 4th day of October, 1982, is employed by the Association as a permanent employee in connection with the operation, management and maintenance of Exhibition Place and who continues to be so employed until the date of the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place; and
- (b) every person who, on the 15th day of March, 1982, is employed by the Exhibition Stadium Corporation and who continues to be so employed until the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place.

Wages and
salary

- (2) Any person who accepts employment under subsection (1) shall be entitled to receive a wage or salary for the one-year period next following the commencement of his employment

with the Board of not less than he was receiving on the 4th day of October, 1982.

(3) Where any person accepts employment under subsection (1), Pension benefits

(a) he shall continue as, or become a member of, the Ontario Municipal Employees Retirement System, as the case requires, on his transfer date; and

(b) with respect to pension benefits accrued prior to the coming into force of an agreement between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place, his employment with the Association or with the Exhibition Stadium Corporation, as the case may be, shall be deemed to be employment with the Board.

(4) The Board shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 4th day of October, 1982. Participation in O.M.E.R.S.

(5) Any sick leave credits standing on the day an agreement is entered into between the Metropolitan Corporation and the Board under subsections 209 (12) and (14) for the operation, management and maintenance of Exhibition Place to the credit of any person who accepts employment under subsection (1) shall be placed to the credit of such employee in any sick leave credit plan established by the Board. Sick leave

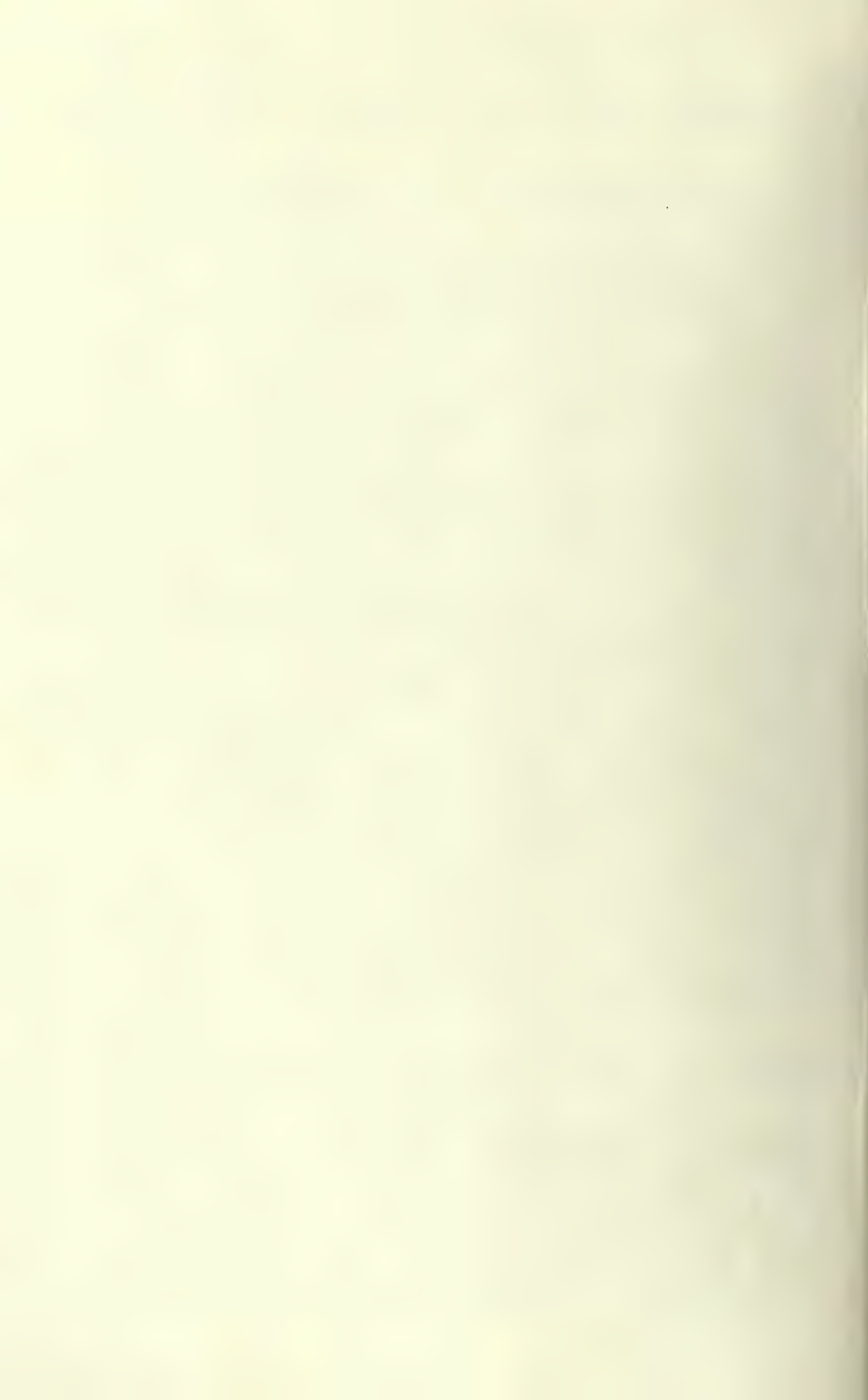
(6) Any person who accepts employment under subsection (1) shall be entitled during 1983 to holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the Association or the Exhibition Stadium Corporation, as the case may be. Holidays

(7) Nothing in this section prevents the Board from terminating the employment of an employee for cause. Termination of employment

6. Subsection 227 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8". s. 227 (22), amended

7. This Act comes into force on the day it receives Royal Assent. Commencement

8. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*. Short title



**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

**An Act to amend the Provincial Court (Civil Division) Project
Act**

**THE HON. R. MCMURTRY
Attorney General**

EXPLANATORY NOTES

The *Provincial Court (Civil Division) Project Act* was passed in 1979 and created the court in Metropolitan Toronto on a trial basis, to take the place of small claims courts but with extended jurisdiction. The Act contains a provision repealing itself on the 1st day of January, 1983. This Bill would make the court permanent as a provincial court (civil division) in Metropolitan Toronto.

SECTION 1. Amends the title to remove reference to a project.

SECTION 2. The provision repealed states the purposes of the project.

SECTION 3. The provision repealed permits the rules of the court to override any Act or other rules. This was appropriate for an experimental project but not for a permanent court.

SECTION 4. The provision repealed provides for an expiry date for the Act.

BILL 196

1982

An Act to amend the Provincial Court (Civil Division) Project Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title to the *Provincial Court (Civil Division) Project Act*,
being chapter 397 of the Revised Statutes of Ontario, 1980, is
repealed and the following substituted therefor:

Title,
re-enacted

Provincial Court (Civil Division) Act
2. Section 2 of the said Act is repealed.

s. 2,
repealed
3. Subsection 9 (3) of the said Act is repealed.

s. 9 (3),
repealed
4. Section 10 of the said Act is repealed.

s. 10,
repealed
5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
6. The short title of this Act is the *Provincial Court (Civil Division)
Project Amendment Act, 1982*.

Short title

An Act to amend the Provincial
Court (Civil Division) Project Act

1st Reading

November 30th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Provincial Court (Civil Division) Project
Act

THE HON. R. MCMURTRY
Attorney General

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The *Provincial Court (Civil Division) Project Act* was passed in 1979 and created the court in Metropolitan Toronto on a trial basis, to take the place of small claims courts but with extended jurisdiction. The Act contains a provision repealing itself on the 1st day of January, 1983. This Bill would make the court permanent as a provincial court (civil division) in Metropolitan Toronto with provision to extend it to other areas designated from time to time.

SECTION 1. Amends the title to remove reference to a project.

SECTION 2. Complementary to section 4.

SECTION 3. The amendment permits the Court to be extended to other parts of Ontario outside of Metropolitan Toronto and provides for its judges to be provincial judges appointed under the *Provincial Courts Act*.

SECTIONS 4, 5 AND 6. Complementary to section 3. The provision repealed by subsection 6 (2) permits the rules of court to override any Act or other rules. This was appropriate for an experimental project but not for a permanent court.

SECTION 7. The provision repealed provides for an expiry date for the Act.

BILL 196

1982

An Act to amend the Provincial Court (Civil Division) Project Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title to the *Provincial Court (Civil Division) Project Act*, being chapter 397 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: Title,
re-enacted

Provincial Court (Civil Division) Act

- 2.—(1) Clause 1 (b) of the said Act is repealed. s. 1 (b),
repealed
- (2) Clause 1 (c) of the said Act is amended by striking out “of The Municipality of Metropolitan Toronto” in the second line. s. 1 (c),
amended
3. Sections 2, 3 and 4 of the said Act are repealed and the following substituted therefor: s. 2,
re-enacted;
ss. 3, 4,
repealed
- 2.—(1) There shall be a court of record in and for The Municipality of Metropolitan Toronto and such areas as are designated by the rules, named the Provincial Court (Civil Division). Provincial
Court
(Civil
Division)
established
- (2) The Provincial Court (Civil Division) shall be presided over by a provincial judge appointed under the *Provincial Courts Act*. Judges
R.S.O. 1980,
c. 398
- 4.—(1) Subsection 6 (4) of the said Act is amended by inserting after “Toronto” in the second line “and areas designated by the rules”. s. 6 (4),
amended
- (2) Subsection 6 (5) of the said Act is amended by inserting after “Toronto” in the third line “and areas designated by the rules”. s. 6 (5),
amended

s. 7 (1),
amended

5.—(1) Subsection 7 (1) of the said Act is amended by inserting after “1980” in the third line “or in a designated area before the effective date of the designation”.

s. 7 (2),
amended

(2) Subsection 7 (2) of the said Act is amended by striking out “before the 30th day of June, 1980” in the third line and inserting in lieu thereof “in The Municipality of Metropolitan Toronto before the 30th day of June, 1980 or in a designated area before the effective date of the designation”.

s. 9 (1) (b),
re-enacted

6.—(1) Clause 9 (1) (b) of the said Act is repealed and the following substituted therefor:

(b) designating areas in the territorial jurisdiction of the Provincial Court;

(c) providing for sittings of the Provincial Court to be held at places in its territorial jurisdiction outside the local division in which the action is commenced but in the same judicial district.

s. 9 (3),
repealed

(2) Subsection 9 (3) of the said Act is repealed.

s. 10,
repealed

7. Section 10 of the said Act is repealed.

Commence-
ment

8. This Act comes into force on the 1st day of January, 1983.

Short title

9. The short title of this Act is the *Provincial Court (Civil Division) Project Amendment Act, 1982.*



An Act to amend the Provincial
Court (Civil Division) Project Act

1st Reading

November 30th, 1982

2nd Reading

December 17th, 1982

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Reprinted as amended by the
Committee of the Whole House)

BILL 196

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Provincial Court (Civil Division) Project Act

THE HON. R. MCMURTRY
Attorney General

BILL 196

1982

An Act to amend the Provincial Court (Civil Division) Project Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title to the *Provincial Court (Civil Division) Project Act*, being chapter 397 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Title,
re-enacted

Provincial Court (Civil Division) Act

- 2.—(1) Clause 1 (b) of the said Act is repealed.

s. 1 (b),
repealed

- (2) Clause 1 (c) of the said Act is amended by striking out “of The Municipality of Metropolitan Toronto” in the second line.

s. 1 (c),
amended

3. Sections 2, 3 and 4 of the said Act are repealed and the following substituted therefor:

s. 2,
re-enacted;
ss. 3, 4,
repealed

- 2.—(1) There shall be a court of record in and for The Municipality of Metropolitan Toronto and such areas as are designated by the rules, named the Provincial Court (Civil Division).

Provincial
Court
(Civil
Division)
established

- (2) The Provincial Court (Civil Division) shall be presided over by a provincial judge appointed under the *Provincial Courts Act*.

Judges
R.S.O. 1980,
c. 398

- 4.—(1) Subsection 6 (4) of the said Act is amended by inserting after “Toronto” in the second line “and areas designated by the rules”.

s. 6 (4),
amended

- (2) Subsection 6 (5) of the said Act is amended by inserting after “Toronto” in the third line “and areas designated by the rules”.

s. 6 (5),
amended

s. 7 (1),
amended

- 5.—**(1) Subsection 7 (1) of the said Act is amended by inserting after “1980” in the third line “or in a designated area before the effective date of the designation”.

s. 7 (2),
amended

- (2) Subsection 7 (2) of the said Act is amended by striking out “before the 30th day of June, 1980” in the third line and inserting in lieu thereof “in The Municipality of Metropolitan Toronto before the 30th day of June, 1980 or in a designated area before the effective date of the designation”.

s. 9 (1) (b),
re-enacted

- 6.—**(1) Clause 9 (1) (b) of the said Act is repealed and the following substituted therefor:

(b) designating areas in the territorial jurisdiction of the Provincial Court;

(c) providing for sittings of the Provincial Court to be held at places in its territorial jurisdiction outside the local division in which the action is commenced but in the same judicial district.

s. 9 (3),
repealed

- (2) Subsection 9 (3) of the said Act is repealed.

s. 10,
repealed

- 7.** Section 10 of the said Act is repealed.

Commence-
ment

- 8.** This Act comes into force on the 1st day of January, 1983.

Short title

- 9.** The short title of this Act is the *Provincial Court (Civil Division) Project Amendment Act, 1982*.

An Act to amend the Provincial
Court (Civil Division) Project Act

1st Reading

November 30th, 1982

2nd Reading

December 17th, 1982

3rd Reading

December 21st, 1982

THE HON. R. MCMURTRY
Attorney General

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Power Corporation Act

**THE HON. R. WELCH
Minister of Energy**

TORONTO

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EXPLANATORY NOTES

Sections 56*c* to 56*f* of the Act (enacted in 1981) relate to the production, sale, supply and delivery of heat energy.

Heat energy is defined in clause 1 (*f*) of the Act as "energy that is conveyed in the medium of steam, hot water or hot air and that is produced for sale".

Section 56*g* is added to the Act to authorize Ontario Hydro (the Corporation) to develop land in the County of Bruce for use for agricultural, aquacultural, commercial or industrial purposes, to acquire or construct buildings, facilities and municipal services, to make loans or guarantees and to receive or acquire personal property (including shares or evidences of indebtedness of corporations) for the purpose of facilitating the use and sale of heat energy produced by Ontario Hydro works in the Township of Bruce.

Section 46 of the Act, mentioned in subsection 56*g* (2), exempts the Corporation and its property from taxation for municipal or school purposes and provides for payment of amounts by the Corporation.

BILL 197

1982

An Act to amend the Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

56g.—(1) For the purpose of facilitating the use and sale of heat energy produced by works of the Corporation in the Township of Bruce in the County of Bruce, the Corporation, with the approval of the Lieutenant Governor in Council,

s. 56g,
enacted

Bruce
energy
centre

- (a) may acquire by purchase or lease, may hold, develop, use and subdivide and may sell, lease or otherwise dispose of land in the County of Bruce for agricultural, aquacultural, commercial or industrial purposes;
- (b) may acquire by purchase or lease, may construct, install, maintain, operate and use and may sell, lease or otherwise dispose of buildings, facilities (including facilities for transportation, for communication and for public utilities) and municipal services;
- (c) may make or guarantee loans to persons who operate or who propose to operate agricultural, aquacultural, commercial or industrial enterprises utilizing heat energy, and the loans or guarantees may be made upon such terms and conditions, including terms and conditions in respect of security, repayment, costs of recovery and interest, as the Corporation determines;
- (d) may receive, may acquire by purchase or lease and may hold, use, sell, lease or otherwise dispose of personal property, and the personal property may be shares or evidences of indebtedness of a corporation that owns or controls real property or personal property related to

land or the use of land dealt with by the Corporation under clause (a) or that the Corporation proposes to acquire under clause (a).

Application of
s. 46

(2) Section 46 does not apply in respect of property of the Corporation mentioned in clauses (1) (a) to (d).

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Power Corporation Amendment Act, 1982*.

An Act to amend the Power Corporation Act

1st Reading

December 2nd, 1982

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Energy

(*Government Bill*)

Bill 197

*(Chapter 15
Statutes of Ontario, 1983)*

An Act to amend the Power Corporation Act

The Hon. R. Welch
Minister of Energy

<i>1st Reading</i>	December 2nd, 1982
<i>2nd Reading</i>	February 3rd, 1983
<i>3rd Reading</i>	February 8th, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 197 1982

An Act to amend the Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 56g,
enacted

56g.—(1) For the purpose of facilitating the use and sale of heat energy produced by works of the Corporation in the Township of Bruce in the County of Bruce, the Corporation, with the approval of the Lieutenant Governor in Council,

Bruce energy
centre

- (a) may acquire by purchase or lease, may hold, develop, use and subdivide and may sell, lease or otherwise dispose of land in the County of Bruce for agricultural, aquacultural, commercial or industrial purposes;
- (b) may acquire by purchase or lease, may construct, install, maintain, operate and use and may sell, lease or otherwise dispose of buildings, facilities (including facilities for transportation, for communication and for public utilities) and municipal services;
- (c) may make or guarantee loans to persons who operate or who propose to operate agricultural, aquacultural, commercial or industrial enterprises utilizing heat energy, and the loans or guarantees may be made upon such terms and conditions, including terms and conditions in respect of security, repayment, costs of recovery and interest, as the Corporation determines;
- (d) may receive, may acquire by purchase or lease and may hold, use, sell, lease or otherwise dispose of personal property, and the personal property may be shares or evidences of indebtedness of a corporation that owns or controls real property or personal prop-

erty related to land or the use of land dealt with by the Corporation under clause (a) or that the Corporation proposes to acquire under clause (a).

Application
of s. 46

(2) Section 46 does not apply in respect of property of the Corporation mentioned in clauses (1) (a) to (d).

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Power Corporation Amendment Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for an Interim Restraint on the
Pass Through of Financing Costs in respect of
Residential Complexes**

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Bill limits the component of the total rent increase that may be allowed by the Residential Tenancy Commission that is attributable to increased financing costs claimed by a landlord to have resulted from his purchase of a residential complex.

In respect of applications made to the Commission by a landlord after October 31st, 1982, and in respect of applications made on or before that date where the hearing is not commenced before the Act comes into force and where there has been more than one purchase of the residential complex after October 31st, 1979, the maximum that may be allowed for such increased financing costs is 5 per cent of the last rent lawfully charged. The Commission may authorize an increase of less than 5 per cent where the rent increases allowed in respect of the increase in financing costs are being phased in over a period of years.

In addition, the operation of subsection 131 (4) of the *Residential Tenancies Act* is suspended in respect of all applications for a rent increase made to the Commission by a landlord (during the currency of the Bill as an Act of the Legislature) and a new method of apportioning the total rent increase for a residential complex amongst the rental units in it is set out that will result in the rent for each unit being increased by the same percentage as the total rent for the residential complex is increased.

Subsection 131 (4) of the *Residential Tenancies Act*, the operation of which is suspended, reads as follows:

(4) *In apportioning the total rent increase determined under subsections (1) and (3) amongst the rental units in the residential complex, the Commission may take into account the following matters:*

1. *The rent schedule proposed by the landlord in his application.*
2. *Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.*
3. *Rents and variations in the rents being charged by other landlords for similar rental units situate in similar residential complexes within the same geographical vicinity.*

Also suspended is the discretionary relief of hardship consideration arising out of the operation of subsection 131 (3) of the *Residential Tenancies Act* in respect of hardship arising out of increases in financing costs resulting from any purchase of a residential complex.

That subsection reads as follows:

(3) *When the total rent increase for the residential complex has been determined under subsection (1), if the resulting gross revenue does not exceed the costs found under clause (1) (a) by at least 2 per cent, the Commission may, where it considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the gross revenue to not more than 2 per cent above the costs found.*

The Act is repealed on December 31st, 1983, but will continue in force after that day for the purpose of concluding any pending applications to the Commission not finally disposed of before December 31st, 1983.

BILL 198 1982

**An Act to provide for an Interim Restraint on the
Pass Through of Financing Costs in respect of
Residential Complexes**

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1.—(1) Words and expressions in this Act that are defined in the *Residential Tenancies Act* have the same meaning in this Act as they have in the *Residential Tenancies Act*, unless the context of this Act otherwise requires. Interpretation
R.S.O. 1980,
c. 452

(2) For the purposes of this Act and the *Residential Tenancies Act*, “purchase” means the acquisition of a residential complex by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in an agreement to purchase a residential complex. Idem

2. This Act applies to any application by a landlord to the Commission under section 126 of the *Residential Tenancies Act*, Application

(a) where the application is made after the 31st day of October, 1982; or

(b) where the application is made on or before the 31st day of October, 1982 and,

(i) the hearing by the Commission pursuant to the application is commenced on or after the day this Act comes into force, and

(ii) the application is in respect of a residential complex that has been purchased more than once after the 31st day of October, 1979.

Limit
on rent
increase
attributable
to increased
financing costs
resulting from
purchase of
residential
complex
R.S.O. 1980,
c. 452

3.—(1) Despite section 131 of the *Residential Tenancies Act*, the Commission, when determining the total rent increase for a residential complex on the application of a landlord under section 126 of that Act, shall, where a financial loss arising out of an increase in financing costs resulting from his purchase of the residential complex, including such a financial loss carried forward from a preceding year, is claimed by the landlord as a part of his claim for a rent increase, allow (as the component of the total increase in rent determined by the Commission that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Where
allowance for
financial loss
phased in

(2) Where in the opinion of the Commission, a rent increase of less than the maximum of 5 per cent allowed under subsection (1) is justified by reason of allowances for financial loss in respect of the increase in financing costs being phased in over a period of years, such lesser amount shall be the amount of rent increase authorized by the Commission in respect of the increase in financing costs.

Application of
R.S.O. 1980,
c. 452,
s. 131 (3)

4. The operation of subsection 131 (3) of the *Residential Tenancies Act* is suspended whenever a part of the rent increase that is to be determined is attributable to increases in financing costs resulting from any purchase of a residential complex.

How total
rent increase
to be
apportioned

5. The operation of subsection 131 (4) of the *Residential Tenancies Act* is suspended in respect of any application made to the Commission under section 126 of that Act and to which this Act applies and despite the amount of the increase set out in a notice given under section 60 of the *Residential Tenancies Act* or under section 129 of the *Landlord and Tenant Act*,

R.S.O. 1980,
c. 232

- (a) the Commission shall apportion the total rent increase determined under subsections 131 (1) and (3) of the *Residential Tenancies Act* equally amongst the rental units in the residential complex, on a percentage basis; and
- (b) the landlord may increase the rent charged for each rental unit in the residential complex by an amount not exceeding the amount set out in the Commission's order.

Commence-
ment

6. This Act comes into force on the day after the day it receives Royal Assent.

Repeal

7.—(1) This Act is repealed on the 31st day of December, 1983.

(2) Despite subsection (1), this Act continues in force for the ^{Saving} purpose of hearing and making orders in respect of applications made to the Commission under section 126 of the *Residential* ^{R.S.O. 1980,} *Tenancies Act* on or before the 30th day of December, 1983 and ^{c. 452} not finally disposed of by the Commission on or before that day, and to appeals therefrom.

8. The short title of this Act is the *Residential Complexes* ^{Short title} *Financing Costs Restraint Act, 1982.*

An Act to provide for an Interim Restraint
on the Pass Through of Financing Costs in
respect of Residential Complexes

1st Reading

December 2nd, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for an Interim Restraint on the
Pass Through of Financing Costs in respect of
Residential Complexes**

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTE

The Bill limits the component of the total rent increase that may be allowed by the Residential Tenancy Commission that is attributable to increased financing costs claimed by a landlord to have resulted from his purchase of a residential complex.

In respect of applications made to the Commission by a landlord after October 31st, 1982, and in respect of applications made on or before that date where the hearing is not commenced before the Act comes into force and where there has been more than one purchase of the residential complex after October 31st, 1979, the maximum that may be allowed for such increased financing costs is 5 per cent of the last rent lawfully charged. The Commission may authorize an increase of less than 5 per cent where the rent increases allowed in respect of the increase in financing costs are being phased in over a period of years.

In addition, the operation of subsection 131 (4) of the *Residential Tenancies Act* is suspended in respect of all applications for a rent increase made to the Commission by a landlord (during the currency of the Bill as an Act of the Legislature) and a new method of apportioning the total rent increase for a residential complex amongst the rental units in it is set out that will result in the rent for each unit being increased by the same percentage as the total rent for the residential complex is increased.

Subsection 131 (4) of the *Residential Tenancies Act*, the operation of which is suspended, reads as follows:

(4) *In apportioning the total rent increase determined under subsections (1) and (3) amongst the rental units in the residential complex, the Commission may take into account the following matters:*

1. *The rent schedule proposed by the landlord in his application.*
2. *Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.*
3. *Rents and variations in the rents being charged by other landlords for similar rental units situate in similar residential complexes within the same geographical vicinity.*

Also suspended is the discretionary relief of hardship consideration arising out of the operation of subsection 131 (3) of the *Residential Tenancies Act* in respect of hardship arising out of increases in financing costs resulting from any purchase of a residential complex.

That subsection reads as follows:

(3) *When the total rent increase for the residential complex has been determined under subsection (1), if the resulting gross revenue does not exceed the costs found under clause (1) (a) by at least 2 per cent, the Commission may, where it considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the gross revenue to not more than 2 per cent above the costs found.*

The Act is repealed on December 31st, 1983, but will continue in force after that day for the purpose of concluding any pending applications to the Commission not finally disposed of before December 31st, 1983.

BILL 198

1982

An Act to provide for an Interim Restraint on the Pass Through of Financing Costs in respect of Residential Complexes

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Words and expressions in this Act that are defined in the *Residential Tenancies Act* have the same meaning in this Act as they have in the *Residential Tenancies Act*, unless the context of this Act otherwise requires. Interpretation
R.S.O. 1980,
c. 452

(2) For the purposes of this Act and the *Residential Tenancies Act*, “purchase” means the acquisition of a residential complex by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in an agreement to purchase a residential complex. Idem

2. This Act, except section 5, applies to any application by a landlord to the Commission under section 126 of the *Residential Tenancies Act*, Application

- (a) where the application is made after the 31st day of October, 1982; or
- (b) where the application is made on or before the 31st day of October, 1982 and,
 - (i) the hearing by the Commission pursuant to the application is commenced on or after the day this Act comes into force, and
 - (ii) the application is in respect of a residential complex that has been purchased more than once after the 31st day of October, 1979.

Limit
on rent
increase
attributable
to increased
financing costs
resulting from
purchase of
residential
complex
R.S.O. 1980,
c. 452

3.—(1) Despite section 131 of the *Residential Tenancies Act*, the Commission, when determining the total rent increase for a residential complex on the application of a landlord under section 126 of that Act, shall, where a financial loss arising out of an increase in financing costs resulting from his purchase of the residential complex, including such a financial loss carried forward from a preceding year, is claimed by the landlord as a part of his claim for a rent increase, allow (as the component of the total increase in rent determined by the Commission that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Where
allowance for
financial loss
phased in

(2) Where in the opinion of the Commission, a rent increase of less than the maximum of 5 per cent allowed under subsection (1) is justified by reason of allowances for financial loss in respect of the increase in financing costs being phased in over a period of years, such lesser amount shall be the amount of rent increase authorized by the Commission in respect of the increase in financing costs.

Application of
R.S.O. 1980,
c. 452,
s. 131 (3)

4. The operation of subsection 131 (3) of the *Residential Tenancies Act* is suspended whenever a part of the rent increase that is to be determined is attributable to increases in financing costs resulting from any purchase of a residential complex.

How total
rent increase
to be
apportioned

5. The operation of subsection 131 (4) of the *Residential Tenancies Act* is suspended in respect of any application made to the Commission under section 126 of that Act where the hearing in respect of the application is commenced on or after the day this Act comes into force and despite the amount of the increase set out in a notice given under section 60 of the *Residential Tenancies Act* or under section 129 of the *Landlord and Tenant Act*,

R.S.O. 1980,
c. 232

- (a) the Commission shall apportion the total rent increase determined under subsections 131 (1) and (3) of the *Residential Tenancies Act* equally amongst the rental units in the residential complex, on a percentage basis; and
- (b) the landlord may increase the rent charged for each rental unit in the residential complex by an amount not exceeding the amount set out in the Commission's order.

Commence-
ment

6. This Act comes into force on the day after the day it receives Royal Assent.

Repeal

7.—(1) This Act is repealed on the 31st day of December, 1983.

(2) Despite subsection (1), this Act continues in force for the Saving purpose of hearing and making orders in respect of applications made to the Commission under section 126 of the *Residential Tenancies Act* on or before the 30th day of December, 1983 and not finally disposed of by the Commission on or before that day, and to appeals therefrom. R.S.O. 1980, c. 452

8. The short title of this Act is the *Residential Complexes Financing Costs Restraint Act, 1982*. Short title

An Act to provide for an Interim Restraint
on the Pass Through of Financing Costs in
respect of Residential Complexes

1st Reading

December 2nd, 1982

2nd Reading

December 16th, 1982

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Reprinted as amended by the
Administration of Justice Committee)

BILL 198

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to provide for an Interim Restraint on the Pass Through of Financing Costs in respect of Residential Complexes

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

BILL 198

1982

An Act to provide for an Interim Restraint on the Pass Through of Financing Costs in respect of Residential Complexes

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Words and expressions in this Act that are defined in the *Residential Tenancies Act* have the same meaning in this Act as they have in the *Residential Tenancies Act*, unless the context of this Act otherwise requires. Interpretation
R.S.O. 1980,
c. 452

(2) For the purposes of this Act and the *Residential Tenancies Act*, “purchase” means the acquisition of a residential complex by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in an agreement to purchase a residential complex. Idem

2. This Act, except section 5, applies to any application by a landlord to the Commission under section 126 of the *Residential Tenancies Act*, Application

(a) where the application is made after the 31st day of October, 1982; or

(b) where the application is made on or before the 31st day of October, 1982 and,

(i) the hearing by the Commission pursuant to the application is commenced on or after the day this Act comes into force, and

(ii) the application is in respect of a residential complex that has been purchased more than once after the 31st day of October, 1979.

Limit
on rent
increase
attributable
to increased
financing costs
resulting from
purchase of
residential
complex
R.S.O. 1980,
c. 452

3.—(1) Despite section 131 of the *Residential Tenancies Act*, the Commission, when determining the total rent increase for a residential complex on the application of a landlord under section 126 of that Act, shall, where a financial loss arising out of an increase in financing costs resulting from his purchase of the residential complex, including such a financial loss carried forward from a preceding year, is claimed by the landlord as a part of his claim for a rent increase, allow (as the component of the total increase in rent determined by the Commission that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Where
allowance for
financial loss
phased in

(2) Where in the opinion of the Commission, a rent increase of less than the maximum of 5 per cent allowed under subsection (1) is justified by reason of allowances for financial loss in respect of the increase in financing costs being phased in over a period of years, such lesser amount shall be the amount of rent increase authorized by the Commission in respect of the increase in financing costs.

Application of
R.S.O. 1980,
c. 452,
s. 131 (3)

4. The operation of subsection 131 (3) of the *Residential Tenancies Act* is suspended whenever a part of the rent increase that is to be determined is attributable to increases in financing costs resulting from any purchase of a residential complex.

How total
rent increase
to be
apportioned

5. The operation of subsection 131 (4) of the *Residential Tenancies Act* is suspended in respect of any application made to the Commission under section 126 of that Act where the hearing in respect of the application is commenced on or after the day this Act comes into force and despite the amount of the increase set out in a notice given under section 60 of the *Residential Tenancies Act* or under section 129 of the *Landlord and Tenant Act*,

R.S.O. 1980,
c. 232

(a) the Commission shall apportion the total rent increase determined under subsections 131 (1) and (3) of the *Residential Tenancies Act* equally amongst the rental units in the residential complex, on a percentage basis; and

(b) the landlord may increase the rent charged for each rental unit in the residential complex by an amount not exceeding the amount set out in the Commission's order.

Commence-
ment

6. This Act comes into force on the day after the day it receives Royal Assent.

Repeal

7.—(1) This Act is repealed on the 31st day of December, 1983.

(2) Despite subsection (1), this Act continues in force for the ^{Saving} purpose of hearing and making orders in respect of applications made to the Commission under section 126 of the *Residential Tenancies Act* on or before the 30th day of December, 1983 and ^{R.S.O. 1980, c. 452} not finally disposed of by the Commission on or before that day, and to appeals therefrom.

8. The short title of this Act is the *Residential Complexes* ^{Short title} *Financing Costs Restraint Act, 1982.*

An Act to provide for an Interim Restraint
on the Pass Through of Financing Costs in
respect of Residential Complexes

1st Reading

December 2nd, 1982

2nd Reading

December 16th, 1982

3rd Reading

December 21st, 1982

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Law Society Act

THE HON. R. MCMURTRY
Attorney General

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The amendments establish the position of Under Treasurer of the Law Society as the chief operating officer of the Society.

BILL 199

1982

An Act to amend the Law Society Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

s. 1,
amended

(i) "Under Treasurer" means the Under Treasurer of the Society.

2. Section 8 of the said Act is repealed and the following substituted therefor:

s. 8,
re-enacted

8.—(1) The Under Treasurer shall, under the control of the Treasurer and Convocation, manage the affairs and functions of the Society as its chief operating officer.

Under
Treasurer

(2) The Secretary shall carry out his duties under this Act, the regulations and rules and such other duties as he may be instructed to undertake by the Treasurer, Under Treasurer and Convocation.

Secretary

3. Paragraph 8 of subsection 62 (1) of the said Act is amended by inserting after "duties" in the second line "of the Under Treasurer and".

s. 62 (1),
par. 8,
amended

4. This Act comes into force on the day it receives Royal Assent.
5. The short title of this Act is the *Law Society Amendment Act, 1982*.

Commence-
ment

Short title

An Act to amend the Law Society Act

1st Reading

December 3rd, 1982

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

BILL 199

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Law Society Act

THE HON. R. MCMURTRY
Attorney General

BILL 199

1982

An Act to amend the Law Society Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:
 - (i) "Under Treasurer" means the Under Treasurer of the Society.
2. Section 8 of the said Act is repealed and the following substituted therefor:
 - 8.—(1) The Under Treasurer shall, under the control of the Treasurer and Convocation, manage the affairs and functions of the Society as its chief operating officer.
 - (2) The Secretary shall carry out his duties under this Act, the regulations and rules and such other duties as he may be instructed to undertake by the Treasurer, Under Treasurer and Convocation.
3. Paragraph 8 of subsection 62 (1) of the said Act is amended by inserting after "duties" in the second line "of the Under Treasurer and".
4. This Act comes into force on the day it receives Royal Assent.
5. The short title of this Act is the *Law Society Amendment Act, 1982*.

s. 1,
amendeds. 8,
re-enactedUnder
Treasurer

Secretary

s. 62 (1),
par. 8,
amendedCommence-
ment

Short title

An Act to amend the Law Society Act

1st Reading

December 3rd, 1982

2nd Reading

December 21st, 1982

3rd Reading

December 21st, 1982

THE HON. R. McMURTRY
Attorney General

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Financial Administration Act

MR. RUPRECHT

EXPLANATORY NOTE

The Bill is intended to authorize the ongoing payment of the salaries of Crown employees where the passage of supply is delayed and the Assembly's authorization for interim supply has not been obtained.

An Act to amend the Financial Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Financial Administration Act*, being chapter 161 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 15a,
enacted

15a.—(1) Where ten days have passed since any lapse of the Treasurer's authority to make payments out of the Consolidated Revenue Fund for salaries and benefits owing to Crown employees, the Treasurer may make such payments pending the voting of Supply. Civil service
salaries
where Supply
blocked

(2) Payments made under subsection (1) shall be charged to the proper appropriation following the voting of Supply. How
payments
to be
charged

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Financial Administration Amendment Act, 1982*. Short title

An Act to amend the
Financial Administration Act

1st Reading

December 8th, 1982

2nd Reading

3rd Reading

MR. RUPPRECHT

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Election Act

MR. BOUDRIA

EXPLANATORY NOTE

The Bill would provide a procedure of voting by mail, for the convenience of persons physically incapable of attending a polling place. This system would be an alternative to the present procedure of voting by proxy.

BILL 201

1982

An Act to amend the Election Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 87a,
enacted

87a.—(1) A voter who is prevented by any physical handicap or other incapacitating physical condition from attending the polling place or the advance poll may apply in writing, giving his or her full name and address, to the returning officer to vote at the election by mail. Handicapped
voters, etc.,
may apply to
vote by mail

(2) When the returning officer receives a voter's application under subsection (1) at least ten days before the polling day and is satisfied that the voter is, Ballot to
be sent

(a) qualified to vote in the election; and

(b) prevented by a physical handicap or other incapacitating physical condition from attending the polling place or the advance poll,

the returning officer shall initial a ballot in the manner provided by section 82 and, at least seven days before the polling day, shall mail or deliver to the voter at the address shown on the application,

(c) the initialled ballot;

(d) a ballot envelope;

(e) a certificate envelope printed with a certificate of identification in the prescribed form;

(f) an envelope printed with the returning officer's mailing address; and

(g) a copy of subsection (5).

Sending of
ballot to
be recorded

(3) Where the returning officer mails or delivers a ballot and accompanying material to a voter under subsection (2), the returning officer shall,

- (a) enter the words "Ballot sent" opposite the voter's name in the polling list to be supplied to each deputy returning officer on polling day; and
- (b) enter the voter's name in a separate record of the names of voters to whom ballots have been sent under subsection (2).

One vote
only

(4) A voter to whom a ballot has been sent under subsection (2) is not entitled to vote at the advance poll or at the polling place on the polling day.

Voting
procedure

(5) A voter who receives a ballot and accompanying material under subsection (2) shall mark the ballot and vote in the following manner:

- 1. The voter shall mark the ballot with a pen or pencil within the white circle following the name of the candidate chosen.
- 2. The voter shall insert the marked ballot into the ballot envelope and seal the ballot envelope.
- 3. The voter shall insert the ballot envelope into the certificate envelope and seal the certificate envelope.
- 4. The voter and another voter qualified to vote in the same polling subdivision shall complete the certificate of identification printed on the certificate envelope.
- 5. The voter shall insert the certificate envelope into the envelope printed with the returning officer's address and seal the envelope.
- 6. The voter shall mail or deliver the sealed outer envelope to the returning officer so that it reaches the returning officer before the close of polls on the polling day.

ss. 66, 67,
69 and 70
apply

(6) Sections 66, 67, 69 and 70 apply, with necessary modifications, to voting under subsection (5).

Returning
officer to
deal with
ballot

(7) Where the returning officer receives a ballot under subsection (5) before the close of polls on the polling day, the returning officer shall,

- (a) record the return of the ballot opposite the voter's name in the record kept under clause (3) (b); and

(b) if satisfied, from an examination of the certificate of identification, as to the voter's identity, place the unopened ballot envelope in a special ballot box kept for ballots that have been sent to voters and returned; or

(c) if not satisfied, from an examination of the certificate of identification, as to the voter's identity, keep the unopened certificate envelope, marked "Not identified", with the record kept under clause (3) (b).

(8) Sections 103 and 104 apply, with necessary modifications, to the ballot box kept under clause (7) (b). Counting,
etc.,
of ballots

2. Section 165 of the said Act is amended by adding thereto the following clause: s. 165,
amended

(c) prescribing the form of the certificate of identification to be used under section 87a.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Election Amendment Act, 1982*. Short title

An Act to amend the Election Act

1st Reading

December 9th, 1982

2nd Reading

3rd Reading

MR. BOUDRIA

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Consumer Protection Act

MR. NEWMAN

EXPLANATORY NOTE

This Bill requires that every product offered for sale by a retailer that is marked with the universal product code must also be clearly marked with its individual purchase price.

An Act to amend the Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 38a,
enacted

38a.—(1) In this section,

Interpre-
tation

- (a) “computer code” means a marking that is designed to be read and recorded by a computer device for the purpose of calculating the purchase price of a product offered for sale and includes the universal product code;
- (b) “product” means an item of goods;
- (c) “retail seller” means a person who offers a product for sale but not for resale.

(2) No retail seller shall offer for sale a product that is marked with a computer code unless the individual purchase price of such product is clearly expressed on the product, its wrapper or container. Individual
purchase
price
marking
required

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Consumer Protection Amendment Act, 1982*. Short title

An Act to amend the
Consumer Protection Act

1st Reading

December 9th, 1982

2nd Reading

3rd Reading

MR. NEWMAN

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Fuel Tax Act, 1981

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

The purpose of the Bill is to remove the requirement that the applicant for relief from the cost of construction or acquisition of tanks for the storage and transportation of fuel required as a result of the Act must obtain the Minister's approval prior to the construction of the structure or facility and to provide for the making of certain regulations by the Lieutenant Governor in Council and the Minister.

SECTION 1. This section provides that the Minister may by regulation designate those interjurisdictional carriers required to hold a registration certificate under the Act. Subsection 3 (1) now reads as follows:

- (1) *Every interjurisdictional carrier required to hold a registration certificate under this section shall, by such form and in such manner as the Minister requires, apply for a registration certificate and the Minister may issue a registration certificate to the applicant subject to such conditions and restrictions as the Minister considers necessary to ensure compliance with this Act and the regulations.*

SECTION 2.—Subsection 1. Provides for the making of regulations by the Lieutenant Governor in Council authorizing or requiring officers of the Ministry of Revenue to exercise the powers and perform the duties of the Minister under the Act or the regulations. Clause 30 (1) (h) now reads as follows:

- (1) *The Lieutenant Governor in Council may make regulations,*
.
 - (h) *authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed by this Act.*

Subsection 2. Provides for the making of regulations by the Minister prescribing,

- (a) those interjurisdictional carriers required to register under section 3 of the Act;
- (b) the location of identifying labels and seals on equipment used to colour, store, transport or deliver coloured fuel; and
- (c) the time and manner of delivering a return under subsection 10 (1) of the Act.

SECTION 3. This section removes the requirement that the applicant for relief from the cost of construction or acquisition of tanks for the storage and transportation of fuel required as a result of the Act must obtain the Minister's approval prior to the construction of the structure or facility. Subsection 31 (2) now reads as follows:

- (2) *The applicant for relief under subsection (1) must obtain approval of the Minister prior to the commitment of any funds for the construction of the structure or facility with respect to which a grant is claimed.*

BILL 203

1982

An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (1) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by inserting after "required" in the first line "by the regulations". s. 3 (1),
amended
- 2.—(1) Clause 30 (1) (*h*) of the said Act is repealed and the following substituted therefor: s. 30 (1) (*h*),
re-enacted
 - (*h*) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed on the Minister by this Act or the regulations.
- (2) Subsection 30 (2) of the said Act is amended by adding thereto the following clauses: s. 30 (2),
amended
 - (*r*) prescribing those interjurisdictional carriers required to hold a registration certificate under section 3;
 - (*s*) prescribing the location on equipment used to colour, store, transport or deliver coloured fuel where identifying labels or seals must be affixed;
 - (*t*) prescribing the time and manner for delivering a return under subsection 10 (1).
3. Subsection 31 (2) of the said Act is repealed. s. 31 (2),
repealed
4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is the *Fuel Tax Amendment Act, 1982*. Short title

An Act to amend
the Fuel Tax Act, 1981

1st Reading

December 10th, 1982

2nd Reading

3rd Reading

THE HON. G.L. ASHE
Minister of Revenue

(Government Bill)

Bill 203

*(Chapter
Statutes of Ontario, 1983)*

An Act to amend the Fuel Tax Act, 1981

The Hon. G. L. Ashe
Minister of Revenue

<i>1st Reading</i>	December 10th, 1982
<i>2nd Reading</i>	February 1st, 1983
<i>3rd Reading</i>	February 3rd, 1983
<i>Royal Assent</i>	

Bill 203

1982

An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (1) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by inserting after "required" in the first line "by the regulations". s. 3 (1),
amended

2.—(1) Clause 30 (1) (h) of the said Act is repealed and the following substituted therefor: s. 30 (1) (h),
re-enacted

- (h) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed on the Minister by this Act or the regulations.

(2) Subsection 30 (2) of the said Act is amended by adding thereto the following clauses: s. 30 (2),
amended

- (r) prescribing those interjurisdictional carriers required to hold a registration certificate under section 3;
- (s) prescribing the location on equipment used to colour, store, transport or deliver coloured fuel where identifying labels or seals must be affixed;
- (t) prescribing the time and manner for delivering a return under subsection 10 (1).

3. Subsection 31 (2) of the said Act is repealed. s. 31 (2),
repealed

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Fuel Tax Amendment Act, 1983*. Short title

Bill 203

*(Chapter 16
Statutes of Ontario, 1983)*

An Act to amend the Fuel Tax Act, 1981

The Hon. G. L. Ashe
Minister of Revenue

<i>1st Reading</i>	December 10th, 1982
<i>2nd Reading</i>	February 1st, 1983
<i>3rd Reading</i>	February 3rd, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 203

1982

An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (1) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by inserting after "required" in the first line "by the regulations". s. 3 (1),
amended

2.—(1) Clause 30 (1) (h) of the said Act is repealed and the following substituted therefor: s. 30 (1) (h),
re-enacted

- (h) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed on the Minister by this Act or the regulations.

(2) Subsection 30 (2) of the said Act is amended by adding thereto the following clauses: s. 30 (2),
amended

- (r) prescribing those interjurisdictional carriers required to hold a registration certificate under section 3;
- (s) prescribing the location on equipment used to colour, store, transport or deliver coloured fuel where identifying labels or seals must be affixed;
- (t) prescribing the time and manner for delivering a return under subsection 10 (1).

3. Subsection 31 (2) of the said Act is repealed. s. 31 (2),
repealed

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Fuel Tax Amendment Act, 1983*. Short title

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Land Transfer Tax Act

THE HON. G. L. ASHE
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EXPLANATORY NOTES

GENERAL. The Bill deems a taxable disposition of land to occur where a corporation or trust which owns agricultural land in Ontario becomes a non-resident. A non-resident is thereby prevented from avoiding the 20 per cent tax imposed on conveyances of land by purchasing shares in a company owning Ontario agricultural land.

In addition, the Bill proposes amendments to clarify the administration of the Act, by,

- (a) providing a mechanism through which a taxpayer may appeal the disallowance by the Minister of a claim for refund;
- (b) allowing the spouse of a non-resident who acquires property under clause 16 (4) (a) or (b) to join in the conveyance and acquire the land at the lower rate of tax;
- (c) providing for a single consolidated affidavit as to both the value of the consideration and the residence of the transferee; and
- (d) providing for the determination in certain circumstances of the value of the consideration for the conveyance of land on which tax is exigible.

SECTION 1. Subsection (1) of this section provides for the definition of the word "associate" to indicate the relationship between a company and another company or person that holds its shares, between partners, between a trust and its trustees and beneficiaries, and between certain relatives.

Subsection (2) extends the definition of "convey" to include the registration of an instrument containing a recital or reference to an unregistered instrument by which land is conveyed. The change relates to the changes contained in subsections (3), (6), (9), (10) and (13) and subsection 5 (1). Clause 1 (1) (b) of the Act now reads as follows:

- (b) *"convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan.*

Subsection (3) extends the definition of "conveyance" to include a recital or reference in any registered instrument to an unregistered instrument by which land is conveyed. The change relates to the changes contained in subsections (2), (6), (9), (10) and (13) and subsection 5 (1). Clause 1 (1) (c) of the Act now reads as follows:

- (c) *"conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land and a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed.*

Subsection (4) extends the definition of "non-resident corporation" to include a corporation which has allotted shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable to a non-resident and his non-resident associates. Subclause 1 (1) (f) (ii) of the Act now reads as follows:

(f) *"non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,*

(ii) *that has allotted and issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one non-resident person, but this subclause does not apply where it is established to the satisfaction of the Minister that such non-resident person does not in fact directly or indirectly exercise control over the corporation and that subclause (v) does not apply to the corporation.*

Subsection (5) further extends the definition of "non-resident corporation" by including any corporation,

- (a) one-quarter of the paid-up capital of which is held by a non-resident and his non-resident associates;
- (b) one-half of the paid-up capital of which is held by non-residents;
- (c) one-quarter of the surplus of which would be distributed to a non-resident and his non-resident associates in the event of a dissolution or winding-up; or
- (d) one-half of the surplus of which would be distributed to non-residents in a dissolution or winding-up.

Subsection (6) defines "spouse" by reference to the meaning of that term in the *Family Law Reform Act*. The definition of "notice of any kind" relates to subsections (2), (3), (9), (10) and (13) and subsection 5 (1).

Subsection (7) defines "tax" to include penalties and interest added to the tax. Clause 1 (1) (k) of the Act now reads as follows:

(k) *"tax" means the tax imposed by this Act.*

Subsection (8) provides a means to establish the value of the consideration for a conveyance upon which tax is based in the circumstances of a mortgage foreclosure. Sub-subclause 1 (1) (p) (ii) (A) of the Act now reads as follows:

(p) *"value of the consideration" includes,*

(ii) *in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,*

(A) *the amount owed under the mortgage or charge at the time it was foreclosed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time,*
or

Subsection (9) extends the situations in which the valuation method for leasehold interests conveyed can be used to include situations where a recital or reference in a registered instrument refers to an unregistered lease. This change relates to subsections (2), (3), (6), (10) and (13) and subsection 5 (1). Subclause 1 (1) (p) (iii) of the Act now reads as follows:

- (iii) *in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection (4), the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed.*

Subsection (10) amends the definition of "value of the consideration" to include a method of valuation where the conveyance is a recital or reference in a registered instrument to a conveyance in an unregistered instrument. This change relates to subsections (2), (3), (6), (9) and (13) and subsection 5 (1). Subclause 1 (1) (p) (iv) of the Act now reads as follows:

- (iv) *in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause (iii) the value of the consideration, determined under subclause (i) or (ii) for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause (iii), or*

Subsection (11) provides a means to establish the value of the consideration for a conveyance on which tax is based where a person conveys land to a corporation in return for shares of the corporation or where a corporation distributes land as a dividend in specie and where a trustee conveys land to another trustee subsequent to a transfer for valuable consideration of the beneficial interest in the land.

Subsection (12) provides that where a person has a contractual right either immediately or at a future time to acquire shares, that person will be deemed to own the shares and provides for the deemed issue and paid-up value of the shares. In addition, the subsection provides that where a share is owned jointly by several persons, one of whom is a non-resident, the share shall be considered to be owned by a non-resident.

Subsection (13) relates to subsections (2), (3), (6), (9) and (10) and subsection 5 (1).

SECTION 2. This section provides that where as a result of a disposition of agricultural land, a corporation or trust becomes a non-resident, that corporation or trust shall pay a tax of 20 per cent of the fair value of the land so disposed of. Dispositions include,

- (a) the transfer of any beneficial interest in shares of a corporation, one of the assets of which is agricultural land;
- (b) the amalgamation of two or more corporations, one of the assets of any one or more of which is agricultural land; or
- (c) the transfer of a beneficial interest in agricultural land,

but no disposition occurs on a transfer that results from the death of the owner of the interest transferred and that is not provided for by an enforceable agreement.

SECTION 3. This section provides for a single affidavit to consolidate and replace the affidavit as to consideration and the affidavit as to residence, and repeals certain subsections rendered obsolete by the consolidation. The section

also provides for returns and remittances of tax on dispositions of agricultural land.

Subsection (1) provides that the affidavit required under the Act will include a reference to the residency status of the transferee. Subsection 4 (1) of the Act now reads as follows:

- (1) There shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in the prescribed form setting out the true value of the consideration for the conveyance, the true amount in cash and the value of any property or security included in the value of the consideration, the amount or value of any lien or encumbrance subject to which the conveyance was made, and such other information as the Minister may prescribe to be disclosed in the affidavit.*

Subsection (2) repeals subsection 4 (2) of the Act which now reads as follows:

- (2) The affidavit required by subsection (1) shall be made by the persons who are required to make the affidavit required by subsection (3), and notwithstanding subsection (3), the Minister may prescribe a form in which the affidavits required by subsection (1) or (3) are combined as one affidavit for the purposes of those subsections.*

Subsection (3) provides that the affidavit must be made by the persons listed in clauses (a) to (g). Subsection 4 (3) of the Act now reads as follows:

- (3) In addition to the affidavit required by subsection (1), there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in such form as is prescribed, and the affidavit shall be made by,*
- (a) each transferee to whom or in trust for whom any land is conveyed by the conveyance to which the affidavit relates;*
 - (b) each trustee to whom any land is conveyed and who is shown as a trustee in the conveyance to which the affidavit relates;*
 - (c) each transferee named in the conveyance to which the affidavit relates;*
 - (d) an agent of any person referred to in clause (a), (b) or (c), if the agent is authorized in writing to make the affidavit;*
 - (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause (a), (b) or (c);*
 - (f) the presiding officer authorized to act for a corporation that is a person referred to in clause (a), (b) or (c), or the Vice-President, Manager, Secretary, Director or Treasurer authorized to act for such corporation; or*
 - (g) either of two transferees who are married to each other and both of whom are transferees referred to in clause (a), (b) or (c), where the transferee making the affidavit is acting on behalf of the other of such transferees,*

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.

Subsection (4) amends the reference in subsection 4 (4) of the Act to refer to the consolidated affidavit. Subsection 4 (4) of the Act now reads as follows:

- (4) *The affidavit required by subsection (1) or (3) shall state that the person making it has personal knowledge of the facts stated in it, and shall state, where applicable, the capacity in which such person is making the affidavit and the name of any transferee on whose behalf such person is making the affidavit.*

Subsection (5) repeals subsection 4 (6) of the Act which now reads as follows:

- (6) *Except as provided in subsection (7) or (8), where a conveyance is tendered for registration without the affidavit required by subsection (3), tax is payable at the rate provided in subsection 2 (2), and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection (3) been furnished to the collector, tax would have been payable as provided in subsection 2 (1), the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 2 (1).*

Subsection (6) provides that the consolidated affidavit is required on all conveyances except conveyances to the Crown. Subsection 4 (7) of the Act now reads as follows:

- (7) *Notwithstanding subsection (3), no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada, a Crown agency within the meaning of the Crown Agency Act, the corporation of a municipality, including a district, metropolitan or regional municipality, in Ontario, a local board, as defined in the Municipal Affairs Act, of any such municipality in Ontario or Ontario Hydro or any corporation prescribed by the Minister by regulation or any individual acting in an official capacity prescribed by the Minister by regulation, but the Minister may make regulations under this subsection only if he is satisfied that the corporation or the official capacity of the individual is such that the corporation or the individual acting in his official capacity is not, and is not likely to become, a non-resident person.*

Subsection (7) provides for returns and remittances of tax with respect to dispositions of agricultural land to non-resident persons, including the time for filing returns and making remittances, a provision for the extension of that time and penalties for default in filing. The subsection also authorizes a trustee to realize on trust property in order to obtain funds to pay the tax. The trustee is not personally liable for the tax but where he disposes of trust property to beneficiaries without first accounting for tax he is guilty of an offence.

SECTION 4. This section provides that it is an offence to make, or participate in the making of, false or misleading statements in a return. Section 5 of the Act which provided for the payment of tax under protest is repealed; it now reads as follows:

- 5.—(1) *Where the right of the collector to require payment of the tax is disputed by the person tendering a conveyance for registration, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest, and he shall thereupon refer the matter for the decision of the Minister or of such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it.*

- (2) *In any dispute over the liability to tax of any person, the Minister may, after the tax has been paid, and if the dispute involves the interpretation of a provision of this Act, or involves an issue of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.*

SECTION 5. This section provides for the delivery by the Minister of a statement of disallowance to anyone whose claim for refund is refused. The section also changes the reference to a "notice or caution" and in this respect relates to subsections 1 (2), (3), (6), (9), (10) and (13). Subsection 7 (3) of the Act now reads as follows:

- (3) *Where a conveyance is registered that is a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed, and the instrument or writing described in the notice or caution evidences an agreement to transfer or extinguish an interest in land, the Treasurer shall, where the Minister is satisfied that the transfer or extinguishment contemplated in the agreement has not taken place, refund any tax paid on the tender for registration of the conveyance.*

SECTION 6. This section provides that the review process related to a notice of objection will be available to a taxpayer to whom a statement of disallowance has been issued. Subsections 11 (1) and (3) of the Act now read as follows:

- (1) *Where a person objects to an assessment made under section 10 he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.*
- (3) *Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail.*

SECTION 7. This section provides that an appeal to the Supreme Court of Ontario is available to a taxpayer to whom a statement of disallowance has been issued. Subsections 12 (1) and (7) of the Act now read as follows:

- (1) *After the Minister has given the notification required by subsection 11 (3), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 11 (3).*
- (7) *The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.*

SECTION 8. Subsection (1) recognizes the change to the definition of "tax" in subsection 1 (7). Clause 13 (1) (b) of the Act now reads as follows:

(1) Upon default of payment of an amount assessed under section 10,

(b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person assessed for tax under this Act is located or situate for the amount of the tax, interest and penalty or any of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown.

Subsection (2) provides that taxes are a first lien and charge upon the interest in real property of the person liable to pay those taxes, where the lien or charge is registered in the proper land registry office. Where the person interested in the real property is not the registered owner, the notice of first lien and charge shall recite his interest and a copy shall be delivered to the registered owner.

SECTION 9. This section provides for the removal of distinctions drawn between payments on account of penalties, accrued interest and unpaid taxes. Rates of interest will be prescribed by the Lieutenant Governor in Council. Section 15 of the Act now reads as follows:

15.—(1) Where the tax imposed by this Act is not paid at the time provided for, interest on the unpaid tax shall be paid to the Treasurer at the rate of 15 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation but no interest is payable for any period of time prior to the 10th day of April, 1974.

(2) Any payment received by the Treasurer or a collector on account of any tax under this Act shall first be applied to any interest payable on the tax with respect to which the payment is made, but this subsection does not apply to payments on account of any fine or penalty payable under this Act.

SECTION 10. This section would allow the spouse of a non-resident who will use land as his principal residence and who is a Canadian citizen or landed immigrant to join in the conveyance of the land and pay tax at the lower rate of tax. This section also excludes farming from the definition of an active commercial or industrial business so that the acquisition of agricultural land by a non-resident would be denied an exemption under clause 16 (4) (c). Clauses 16 (4) (a) and (b) and subsection 16 (7) of the Act now read as follows:

(4) Upon the tender for registration of a conveyance that is described in any of clauses (a) to (e) and that is made to a non-resident person, the tax imposed by subsection 2 (2) shall, notwithstanding any other provision of this Act, be reduced to an amount equal to the tax that would result if only the rates of tax mentioned in subsection 2 (1) were applicable,

(a) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that he has been lawfully admitted to Canada and is lawfully in Canada as an immigrant admitted under the Immigration Act (Canada) for permanent residence in Canada, or that he is lawfully in Canada for the purpose

of engaging in a trade, profession, calling, occupation or employment that he is authorized to engage in in Canada, and the nature of that trade, profession, calling, occupation or employment,

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon his principal residence in Canada, and will not be used as the residence of persons other than the transferee or members of his family or members of his usual domestic establishment,

(iii) the number and expiration date of the employment visa, if any, issued to him pursuant to the Immigration Act (Canada) or regulations made thereunder and the length of time during which he intends to engage in the trade, profession, calling, occupation or employment for which he was admitted into Canada, and

(iv) that he is not in Canada as a tourist or visitor or for the purpose of passing through Canada to another country, or as a student admitted to Canada under the provisions of paragraph 7 (1) (f) of the Immigration Act (Canada);

(b) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that the transferee is a Canadian citizen, and

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon a place of residence or recreation to be his principal residence or principal recreational property upon his return to Canada to take up permanent residence in Canada;

(7) For the purposes of clause (1) (b), farming shall not be considered to be an active commercial or industrial business.

Subsection (3) repeals the provision permitting a non-resident person to pay tax equal to the amount imposed by subsection 2 (1) where he registers a conveyance to which is attached an affidavit stating that the land is being conveyed to him as a result of a final order of foreclosure under a mortgage or charge. Clause 16 (4) (e) of the Act now reads as follows:

(e) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,

(i) that the land being conveyed to him is being acquired by him as the result of a final order of foreclosure under a mortgage or charge affecting the land or is being acquired in any other manner for the sole purpose of satisfying the obligations of the transferor to the transferee under a mortgage or charge affecting the land,

(ii) that the land being conveyed to him is being acquired by him only for the purpose of safeguarding or giving effect to rights or

interests of the transferee as mortgagee or chargee and in respect of an outstanding loan that was owed by the transferor to the transferee and that is in default,

- (iii) that the transferee is dealing in all respects with the transferor as though the parties were strangers, and*
- (iv) that the conveyance was not arranged with the intention of defeating the incidence of tax imposed by this Act.*

An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clause: s. 1 (1),
amended

(a) “associate”, where used to indicate a relationship with any person or company means,

(i) any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,

(ii) any partner of that person or company,

(iii) any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,

(iv) the spouse or any parent, son or daughter, brother or sister of that person, or

(v) any relative of such person or of his spouse who has the same home as such person.

- (2) Clause 1 (1) (b) of the said Act is amended by inserting after “Ontario” in the fifth line “or the registration of a caution or notice of any kind signifying the existence of an unregistered instrument or writing by which land is conveyed,”. s. 1 (1) (b),
amended

- (3) Clause 1 (1) (c) of the said Act is amended by striking out “notice or caution” in the fourth line and inserting in lieu thereof “caution or notice of any kind”. s. 1 (1) (c),
amended

s. 1 (1) (f) (ii),
amended

- (4) Subclause 1 (1) (f) (ii) of the said Act is amended by inserting after “person” in the fifth line “or by that person and one or more persons who are associates of that person and who are themselves non-resident persons” and by inserting after “person” in the eighth line “or group of non-resident persons”.

s. 1 (1) (f),
amended

- (5) Clause 1 (1) (f) of the said Act is amended by striking out “or” at the end of subclause (iv) and by adding thereto the following subclauses:

(vi) one-quarter or more of the paid-up capital of which is held by a non-resident person or by that person and one or more persons who are associates of that person and who are themselves non-resident persons,

(vii) one-half or more of the paid-up capital of which is held by one or more non-resident persons,

(viii) that would be required on dissolving, winding-up, or any other distribution that is not a dividend, to distribute one-quarter or more of its surplus to a non-resident person or to that person and one or more persons who are associates of that person and who are themselves non-resident persons, or

(ix) that would be required on dissolving, winding-up, or any other distribution of surplus that is not a dividend, to distribute one-half or more of its surplus to one or more non-resident persons.

s. 1 (1),
amended

- (6) Subsection 1 (1) of the said Act is further amended by adding thereto the following clauses:

(ga) “notice of any kind” includes a recital or reference made in any registered instrument;

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c. 152

(ja) “spouse” means spouse as defined in clause 14 (b) of the *Family Law Reform Act*.

s. 1 (1) (k),
re-enacted

- (7) Clause 1 (1) (k) of the said Act is repealed and the following substituted therefor:

(k) “tax” means the tax imposed by this Act and includes all penalties and interest that are or may be added to a tax under this Act.

- (8) Sub-subclause 1 (1) (p) (ii) (A) of the said Act is repealed and the following substituted therefor: s. 1 (1) (p) (ii)
(A),
re-enacted

(A) the value of the consideration determined under subclause (i) plus the amount owed under the mortgage or charge at the time it is foreclosed, including principal, interest and all other costs and expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the final order of foreclosure is made and that is held by the mortgagee or chargee in whose favour the final order of foreclosure that is registered is made.

- (9) Subclause 1 (1) (p) (iii) of the said Act is amended by striking out "a notice in writing signifying the existence of a lease of land or of a transfer" in the third and fourth lines and inserting in lieu thereof "a notice of any kind in writing signifying the existence of an unregistered lease of land or of an unregistered transfer". s. 1 (1) (p)
(iii),
amended

- (10) Subclause 1 (1) (p) (iv) of the said Act is repealed and the following substituted therefor: s. 1 (1) (p)
(iv),
re-enacted

(iv) in the case of a caution or notice of any kind in writing signifying the existence of any unregistered instrument or writing by which land is conveyed and that is not a notice in writing described in subclause (iii), the value of the consideration determined under subclause (i) or (ii) for the land conveyed by the unregistered instrument or writing that is referred to in such caution or notice in writing that is not a notice in writing described in subclause (iii).

- (11) Clause 1 (1) (p) of the said Act is amended by adding thereto the following subclauses: s. 1 (1) (p),
amended

(vi) in the case of a conveyance of land from a trustee to another trustee (whether or not either trustee is so described in the conveyance) where,

(A) the person to whom or for whose benefit any equitable or beneficial interest in the

land is held is not the same person to whom or for whose benefit any equitable or beneficial interest in the land was held by the trustee making the conveyance when that trustee first acquired his legal interest in the land, and

- (B) valuable consideration has been given by the transferee of an equitable or beneficial interest for the transfer of any equitable or beneficial interest in the land held by the trustee making the conveyance while that trustee was the holder of the legal interest in the land,

the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends, or

- (vii) in the case of a conveyance of land to a corporation where any part of the consideration consists of the allotment and issuance of the corporation's shares or in the case of a conveyance of land from a corporation to any of its shareholders the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends.

s. 1,
amended

- (12) Section 1 of the said Act is amended by adding thereto the following subsections:

Deemed
ownership
of shares

(2a) Where a person has a right, either as an incident of ownership of a share of a corporation or otherwise under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, equity shares in a corporation, those shares shall, unless the right is contingent upon an event that it is not reasonable to expect to occur within a reasonable time or is such that a reasonable man concerned only with the value of the shares would not exercise it, be deemed to be owned by the person who has the right, and, where the shares are unissued, the shares shall be deemed to be issued and outstanding, and the shares shall be deemed to have a paid-up capital value, with respect to each share equal to,

- (a) the par value, where the shares have a par value;

- (b) the amount that would be paid with respect to each share to exercise the right under the terms of the contract, where the shares have no par value and an amount is specified in the contract; or

- (c) the market value of a share of the class of shares of that corporation that is most clearly similar to that share, where the shares have no par value and no amount is specified in the contract,

and any other person who actually owns the share in respect of which that right exists shall be deemed not to own those shares.

(2b) Where any share of a corporation, or any interest in any share of a corporation as described in subsection (2a), is owned jointly and one or more of the joint owners is a non-resident, the share or interest shall be deemed to be owned by a non-resident person. Where one or more joint owners a non-resident

- (13) Subsection 1 (4) of the said Act is amended by inserting after "notice" in the fourth line "of any kind". s. 1 (4), amended

2. Section 2 of the said Act is amended by adding thereto the following subsections: s. 2, amended

(2a) Where there is a disposition of agricultural land within the meaning of clause (2c) (a) or (b), and where a corporation that owns the land becomes, as a result of the disposition, a non-resident corporation other than a non-resident corporation the equity shares of which have been listed and posted for trading on any stock exchange prescribed under Part XXXII of the Income Tax regulations, being chapter 945 of the Consolidated Regulations of Canada, made under the *Income Tax Act* (Canada), there shall be imposed and levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of disposition and the tax is payable to the Treasurer by the corporation that owns the land immediately upon the disposition and shall be remitted to the Minister at the time of disposition by the person responsible for its payment. Tax imposed on dispositions
R.S.C. 1970, c. 1-5

(2b) Where there is a disposition of agricultural land within the meaning of clause (2c) (c), and where a trust that owns the land becomes, as the result of the disposition a non-resident person, there shall be imposed or levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of the disposition and the tax is payable to the Treasurer immediately upon the disposition by the trust, and the trustee or other holder of the legal interest in the land shall remit the tax to the Minister out of the money or other property in his possession belonging or owing to the beneficiaries at the time of the disposition. Idem

Dispositions
defined

(2c) In this section a disposition of agricultural land includes,

- (a) the sale or transfer in any manner of any beneficial interest in, or the allotment and issue of, including the acquisition of an interest as described in subsection 1 (2a) of shares that are shares in the capital stock of a corporation one of the assets of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard, but this clause does not apply to any transfer of the beneficial interest in such shares that occurs by reason of the death of the owner of them and that is not provided for by an agreement enforceable against the corporation that issued such shares or enforceable by or against the person legally or beneficially entitled to such shares immediately following the death of the owner of them;
- (b) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations one of the assets of any one or more of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard; or
- (c) the sale or transfer, however effected, of any part of the beneficial interest in, any change in the entitlement to, or any accretion to, the beneficial interest in land that is assessed under the *Assessment Act*, or actually used, as agricultural or farm land, woodlands or as an orchard, including any declaration of trust where any part of the corpus of the trust is such land, but this clause does not apply to any transfer of any beneficial interest in land that occurs by reason of the death of the owner of such interest and that is not provided for by an agreement enforceable by or against the person legally or beneficially entitled to such interest immediately following the death of the owner of it.

s. 4 (1),
amended

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “such other information as the Minister may prescribe to be disclosed in the affidavit” in the eighth and ninth lines and inserting in lieu thereof “such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person and shall contain such other information as the Minister may prescribe to be disclosed”.

s. 4 (2),
repealed

(2) Subsection 4 (2) of the said Act is repealed.

(3) Subsection 4 (3) of the said Act is amended,

s. 4 (3),
amended

(a) by striking out that portion of the subsection that precedes clause (a) and inserting in lieu thereof "The affidavit required by subsection (1) shall be made by";

(b) by striking out "married to" in the first line of clause (g) and inserting in lieu thereof "spouses of"; and

(c) by striking out that portion of the subsection that follows clause (g).

(4) Subsection 4 (4) of the said Act is amended by striking out "or (3)" in the first line.

s. 4 (4),
amended

(5) Subsection 4 (6) of the said Act is repealed.

s. 4 (6),
repealed

(6) Subsection 4 (7) of the said Act is repealed and the following substituted therefor:

s. 4 (7),
re-enacted

(7) Notwithstanding subsection (1), no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada or a Crown agency within the meaning of the *Crown Agency Act*.

Affidavit
not required

R.S.O. 1980,
c. 106

(7) Subsection 4 (8) of the said Act is repealed and the following substituted therefor:

s. 4 (8),
re-enacted

(8) Every person liable to pay tax under subsection 2 (2a) and every trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who is liable to remit the tax out of the money or other property in his possession belonging or owing to the beneficiaries of a trust liable to pay tax under subsection 2 (2b) shall deliver a return to the Minister in such form as the Minister shall prescribe on or before the 30th day following the day when the tax becomes payable and shall remit the tax payable with the return.

Returns

(9) Every person who fails to deliver a return as required by subsection (8), or who fails to remit with his return the amount of tax payable, shall pay, when assessed therefor, a penalty of an amount equal to 25 per cent of the tax payable.

Penalty
for default
in filing
returns

(10) The Minister may extend the time for making the return required under subsection (8) either before or after the time for making it has expired.

Extension
of time
for returns

Offence

(11) In addition to any penalty assessed under subsection (9), every person who has failed to deliver a return as required by subsection (8) is guilty of an offence and on conviction is liable to a fine of not less than 25 per cent of the tax payable plus, in an appropriate case, an amount of not more than the amount of tax payable.

Trustee not personally liable if he deducts tax

(12) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred is not, as such, personally liable for the tax levied under subsection 2 (2*b*), but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the person beneficially entitled thereto any property that is vested in him as trustee or other holder of the legal interest in such property at any time after the tax levied under subsection 2 (2*b*) becomes payable without deducting therefrom or collecting an amount sufficient to pay the tax levied.

Penalty

(13) Every such trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who transfers property that is vested in him as trustee or other holder of the legal interest in such property without deducting therefrom or collecting in accordance with subsection (12) the tax payable under subsection 2 (2*b*) by the trust is guilty of an offence and on conviction is liable to a fine equal to 125 per cent of such tax.

Raising of funds for tax

(14) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who is required by subsection 2 (2*b*) to pay tax out of the money or other property in his possession belonging or owing to the beneficiaries of a trust liable to pay tax under subsection 2 (2*b*), has, for the purpose of paying such tax, the power to raise the amount of such tax and any interest and expense properly incurred by him in respect thereof, by sale, mortgage, lease or pledge, of so much property as may be necessary for such purpose.

Fines payable to Treasurer

(15) Fines imposed under this Act shall be paid to the Treasurer on behalf of Her Majesty the Queen in right of Ontario.

s. 5, re-enacted

4. Section 5 of the said Act is repealed and the following substituted therefor:

False statements

5. Any person who has made, or participated in, assented to or acquiesced in the making of, a false or deceptive statement in a return required under subsection 4 (8) is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than the amount of the tax that, had the true facts been stated, would have been pay-

able, plus an amount of not less than \$50 and not more than \$1,000.

5.—(1) Subsection 7 (3) of the said Act is amended by striking out “notice or caution in writing signifying the existence of any” in the first and second lines and inserting in lieu thereof “caution or notice of any kind signifying the existence of any unregistered”.

s. 7 (3),
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

s. 7,
amended

(5) Where a person has, in accordance with this Act and the regulations, applied for a refund under this Act and his claim is in whole or in part refused, the Minister shall cause to be delivered to such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.

Disallowance
of refund

6.—(1) Subsection 11 (1) of the said Act is repealed and the following substituted therefor:

s. 11 (1),
re-enacted

(1) Where a person objects to an assessment made under section 10 or a statement of disallowance made under subsection 7 (5), he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Notice of
objection

(2) Subsection 11 (3) of the said Act is repealed and the following substituted therefor:

s. 11 (3),
re-enacted

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and he shall thereupon notify the person who has made the objection of his action by registered mail.

Reconsidera-
tion

7.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

s. 12 (1),
re-enacted

(1) After the Minister has given the notification required by subsection 11 (3), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment or the statement of disallowance vacated or varied or reassessed or a fresh statement of disallowance issued, but no appeal under this section shall be instituted after the expiration

Appeal

of ninety days from the day on which notice has been mailed to such person under subsection 11 (3).

s. 12 (7),
amended

- (2) Subsection 12 (7) of the said Act is amended by striking out "to vacate the assessment, vary the assessment or reconsider the assessment and reassess" in the third and fourth lines and inserting in lieu thereof "to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance".

s. 13 (1) (b),
amended

- 8.—(1) Clause 13 (1) (b) of the said Act is amended by striking out "interest and penalty or any of them" in the fifth line.

s. 13,
amended

- (2) Section 13 of the said Act is amended by adding thereto the following subsections:

Lien on
real property
in respect
of taxes

(1a) All taxes, cost and other amounts imposed under this Act are, upon the registration by the Minister in the proper land registry office of a notice claiming the first lien and charge conferred by this subsection, a first lien and charge upon any real property in Ontario or any interest therein of the person liable to pay such taxes, costs and other amounts, and such first lien and charge has priority over all encumbrances or claims registered or attaching to the subject property subsequent to the registration of the notice.

Where a
person is
not a
registered
owner

(1b) Where a person has an interest in real property but is not shown as the registered owner thereof in the proper land registry office,

(a) the notice to be registered under subsection (1a) shall recite the interest of the person in the real property; and

(b) a copy of the notice registered under subsection (1a) shall be sent to the registered owner at his address to which the latest notice of assessment under the *Assessment Act* has been sent.

R.S.O. 1980,
c. 31

s. 15 (1),
re-enacted

- 9.—(1) Subsection 15 (1) of the said Act is repealed and the following substituted therefor:

Interest
on unpaid
tax

(1) Where the tax imposed by section 2 or any penalty under subsection 4 (9) is not paid at the time provided for, interest on the unpaid amount shall be paid to the Treasurer at such rate as is prescribed by the Lieutenant Governor in Council and the Lieutenant Governor in Council may also prescribe the method by which such interest is to be calculated, but no interest is payable for any period of time prior to the 10th day of April, 1974.

(2) Subsection 15 (2) of the said Act is repealed.

s. 15 (2),
repealed

10.—(1) Clause 16 (4) (a) of the said Act is amended by striking out “the transferee named in the conveyance and stating” in the second and third lines and inserting in lieu thereof “each transferee named in the conveyance except that where persons who are spouses of each other are so named, only one of such spouses is required to make the affidavit together with all other transferees, stating,”.

s. 16 (4) (a),
amended

(2) Clause 16 (4) (b) of the said Act is amended by striking out “the transferee named in the conveyance and stating” in the second and third lines and inserting in lieu thereof “each transferee named in the conveyance except that where persons who are spouses of each other are so named, only one of such spouses is required to make the affidavit together with all other transferees, stating,”.

s. 16 (4) (b),
amended

(3) Clause 16 (4) (e) of the said Act is repealed.

s. 16 (4) (e),
repealed

(4) Subsection 16 (7) of the said Act is amended by striking out “clause (1) (b)” in the first line and inserting in lieu thereof “this Act”.

s. 16 (7),
amended

11.—(1) This Act comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Provided that no disposition of agricultural land described in subsection 2 (2c) of the *Land Transfer Tax Act*, as enacted by section 2 of this Act, has occurred, no tax is payable where a corporation or trust becomes a non-resident person as a result of the amendments contained in section 1 of this Act, and no tax is payable with respect to any disposition of agricultural land that occurs before this Act comes into force.

Applica-
tion
R.S.O. 1980,
c. 231

12. The short title of this Act is the *Land Transfer Tax Amendment Act, 1982*.

Short title

An Act to amend the
Land Transfer Tax Act

1st Reading

December 10th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Workmen's Compensation Act

THE HON. R. H. RAMSAY
Minister of Labour

EXPLANATORY NOTES

SECTIONS 1, 2, 3. The name of the Act is changed to the *Workers' Compensation Act*. The name of the Workmen's Compensation Board is changed to the Workers' Compensation Board and the expressions "worker", "worker's", "workers" and "workers'" will replace the expressions "employee", "employee's", "employees" and "employees'".

BILL 205

1982

An Act to amend the Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title of the *Workmen's Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: Title,
re-enacted

Workers' Compensation Act

2. The said Act, except sections 72, 74 and 83, is amended by striking out "employee", "employee's", "employees" and "employees' " wherever such expressions occur and inserting in lieu thereof in each instance "worker", "worker's", "workers" and "workers' ", as the case may be. Act,
amended
- 3.—(1) Clause 1 (1) (c) of the said Act is repealed and the following substituted therefor: s. 1 (1) (c),
re-enacted
 - (c) "Board" means the Workers' Compensation Board.
- (2) Clause 1 (1) (j) of the said Act is repealed. s. 1 (1) (j),
repealed
- (3) Subsection 1 (1) of the said Act is amended by adding thereto the following clause: s. 1 (1),
amended
 - (z) "worker" includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner, a member of a municipal volunteer fire brigade, a member of a municipal volunteer ambulance brigade, an auxiliary member of a police force, a person deemed to be a worker under section 11, and a person who is summoned to assist in controlling and extinguishing a fire under the *Forest Fires Prevention Act* or who assists in any search and rescue operation at the request of and

R.S.O. 1980,
c. 173

under the direction of a member of the Ontario Provincial Police Force but, where used in Part I, does not include an outworker or an executive officer of a corporation or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

s. 36 (1) (a, c,
d, e, f),
re-enacted

4.—(1) Clauses 36 (1) (a), (c), (d), (e) and (f) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 1, are repealed and the following substituted therefor:

(a) the necessary expenses of the burial or cremation of the worker, not exceeding \$1,300;

(c) where the widow or widower is the sole dependant, a monthly payment of \$537, effective the 1st day of July, 1982;

(d) where the dependants are a widow or widower and one or more children, a monthly payment of \$537 with an additional monthly payment of \$149 to be increased upon the death of the widow or widower to \$167 for each child under the age of sixteen years, effective the 1st day of July, 1982;

(e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of \$167, effective the 1st day of July, 1982;

(f) where there are dependants other than those mentioned in clauses (c), (d) and (e), and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding, in the whole, \$537 a month effective the 1st day of July, 1982.

(2) Clause 36 (1) (a) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1982.

(3) Clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, apply to payments accruing after the effective date, but nothing therein entitles any person to claim additional compensation for any period prior to the effective date.

SECTION 4.—Subsection 1. Subsection 36 (1) sets out a scale of compensation to be paid where an injury results in death. The proposed amendment increases the amounts payable under subsection 36 (1) as follows:

1. Under clause (a), the burial allowance is increased from \$1,200 to \$1,300.
2. Payments to a dependent widow or widower are increased from \$492 per month to \$537 effective the 1st day of July, 1982.
3. Where the dependent widow or widower has one or more children, the additional monthly payment for each child under the age of sixteen years is increased from \$136 per month to \$149 effective the 1st day of July, 1982. The amount payable to a child upon the death of the widow or widower is increased by the amounts set out in paragraph 4.
4. The payment for dependent children under the age of sixteen years is increased from \$153 per month to \$167 effective the 1st day of July, 1982.

Subsections 2, 3, 4. Self-explanatory.

SECTION 5.—Subsection 1. The lump sum payment under subsection 36 (6) of the Act is increased from \$1,200 to \$1,300.

Subsection 2. Self-explanatory.

SECTION 6.—Subsection 1. The Board will be authorized to make an adjustment in the temporary disability benefits of a worker who has previously received an adjustment under subsection 42 (1) if the worker returns to work but because of a recurrence of the temporary disability the worker is unable to continue working and he or she then receives temporary disability benefits for twelve consecutive months after the recurrence of the disability.

Subsection 2. The proposed amendment permits a 9 per cent adjustment in the rate of compensation of a worker who is not working and who has continuously received temporary disability benefits for the immediately preceding thirty-six months.

SECTION 7. The amount payable for permanent disability under section 43 of the Act is increased by 9 per cent.

- (4) The amounts payable under clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, do not apply to a lump sum award or to payments due prior to the effective date. Idem

- 5.**—(1) Subsection 36 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 2, is repealed and the following substituted therefor: s. 36 (6),
re-enacted

(6) In addition to any other compensation provided for, the widow or widower, or where the worker leaves no widow or widower, the person described in subsection (5), is entitled to a lump sum of \$1,300. Payment of
lump sum

- (2) Subsection 36 (6) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1982. Application

- 6.**—(1) Subsection 42 (2) of the said Act is amended by striking out “and nothing therein entitles any person to more than one adjustment to his rate of compensation under subsection (1)” in the fifth and sixth lines. s. 42 (2),
amended

- (2) Section 42 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 30, section 3, is further amended by adding thereto the following subsections: s. 42,
amended

(5) Notwithstanding subsections (1) and (3), where the worker is not working and is in receipt of temporary disability benefits and has continuously received temporary disability benefits for the immediately preceding thirty-six months, the Board shall adjust the rate of compensation being paid by adding thereto an additional 9 per cent of the compensation rate being paid, but the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 45. Further
adjustment

(6) Subsection (5) applies to payments accruing on and after the 1st day of July, 1982, but nothing therein entitles any person to claim additional compensation for any period prior to the day next following the end of the thirty-six month period referred to in subsection (5) and nothing therein entitles any person to more than one adjustment of the rate of compensation under subsection (5). Application

- 7.** Subsections 43 (8) to (11) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 30, section 4, are repealed and the following substituted therefor: s. 43 (8, 9),
re-enacted;
s. 43 (10, 11),
repealed

(8) The amounts payable under this section shall be increased if the injury occurred on or before the 30th day of June, 1982, by Increase in
payments

adding thereto a factor of 9 per cent effective the 1st day of July, 1982, but the amounts of compensation to which a worker is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings computed under subsection 45 (1) effective on the 1st day of July, 1982, for amounts accruing on and after the 1st day of July, 1982.

Non-
application
of subs. (8)

(9) Subsection (8) does not apply to a lump sum award previously made by the Board under this Part, including an award that was previously commuted or paid as a lump sum under subsection (4), an award under subsection (6) or an award under clause 44 (b).

s. 44,
re-enacted

8.—(1) Section 44 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 5, is repealed and the following substituted therefor:

Minimum
amount of
compensation

44. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured worker is entitled shall not be less than,

(a) for temporary total disability,

(i) \$170 a week, where the worker's average earnings were not less than \$170 a week, from the 1st day of July, 1982, and

(ii) the amount of the worker's earnings, where the worker's average earnings are less than \$170 a week, from the 1st day of July, 1982,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 43 and 45, but the amount of such pension shall not be less than,

(i) for permanent total disability, \$748 a month from the 1st day of July, 1982, and

(ii) for permanent partial disability, an amount proportionate to that mentioned in subclause (i) in accordance with the impairment of earning capacity; or

(c) alternatively to subclause (b) (i), for permanent total disability the benefits which would have been payable from time to time under clauses 36 (1) (c), (d) and (e)

SECTION 8.—Subsection 1. The minimum amount of compensation payable for temporary total disability is increased from \$156 per week to \$170 per week effective the 1st day of July, 1982, where the average earnings of the injured worker were not less than \$170.

The minimum amount payable for permanent total disability is increased from \$686 per month to \$748 from the 1st day of July, 1982.

Subsection 2. Self-explanatory.

SECTION 9.—Subsection 1. The earnings ceiling is increased from \$22,200 to \$24,200.

Subsection 2. Self-explanatory.

SECTION 10.—Subsection 1. The allowance for the repair and replacement of clothing worn or damaged by a lower limb prosthesis or back brace is increased from \$290 to \$316 and by an upper limb prosthesis from \$145 to \$158.

Subsection 2. Self-explanatory.

and under section 38, as if the worker had died from the injury.

- (2) Section 44 of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on and after the 1st day of July, 1982, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1982. Application

- 9.—(1) Subsection 45 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 30, section 6, is repealed and the following substituted therefor: s. 45 (1),
re-enacted

(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the worker was remunerated but not so as in any case to exceed the rate of \$24,200 per annum. How average
earnings to
be computed

- (2) Subsection 45 (1) of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on and after the 1st day of July, 1982, and to benefits arising under subsection 42 (1) and subsection 43 (8) of the said Act, as re-enacted by section 7 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 43 (4), or to an award made under subsection 43 (6), or to an award under clause 44 (b) of the said Act, and nothing in subsection (1) of this section entitles any person to claim additional compensation for any period prior to the 1st day of July, 1982. Application

- 10.—(1) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 7, is repealed and the following substituted therefor: s. 52 (3) (b),
re-enacted

(b) on application, an allowance not exceeding \$316 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$158 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,

- (2) Clause 52 (3) (b) of the said Act, as re-enacted by subsection (1) of this section, applies to payments accruing on and after the 1st day of July, 1982, but nothing therein entitles any person to claim additional payment for any period before the 1st day of July, 1982. Application

s. 55 (1),
re-enacted

- 11.** Subsection 55 (1) of the said Act is repealed and the following substituted therefor:

Board
continued,
name
changed

(1) The body corporate incorporated under the name "Workmen's Compensation Board" is hereby continued under the name "Workers' Compensation Board".

Rights, etc.,
not affected

(1a) The change in the name of the Board does not affect its rights or obligations.

s. 74 (1),
re-enacted

- 12.** Subsection 74 (1) of the said Act is repealed and the following substituted therefor:

Super-
annuation
Fund

(1) The fund known as the "Workmen's Compensation Board Superannuation Fund" for the payment of superannuation allowances or allowances upon the death or disability of an employee or commissioner of the Board, is hereby continued under the name "Workers' Compensation Board Superannuation Fund".

Rights, etc.,
not affected

(1a) The change in the name of the fund does not affect the rights or obligations of the fund.

References
in other
Acts, etc.
R.S.O. 1980,
c. 539

- 13.** A reference to the *Workmen's Compensation Act*, the Workmen's Compensation Board or the Workmen's Compensation Board Superannuation Fund in any Act, regulation, by-law, agreement or other document shall be deemed to be a reference to the *Workers' Compensation Act*, the Workers' Compensation Board and the Workers' Compensation Board Superannuation Fund, respectively.

Commence-
ment

- 14.** This Act comes into force on the day it receives Royal Assent.

Short title

- 15.** The short title of this Act is the *Workmen's Compensation Amendment Act, 1982*.

SECTIONS 11, 12. See explanatory notes for sections 1 to 3.

SECTION 13. Self-explanatory.

An Act to amend the
Workmen's Compensation Act

1st Reading

December 10th, 1982

2nd Reading

3rd Reading

THE HON. R. H. RAMSAY
Minister of Labour

(*Government Bill*)

BILL 205

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Workmen's Compensation Act

**THE HON. R. H. RAMSAY
Minister of Labour**

TORONTO

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BILL 205

1982

An Act to amend the Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title of the *Workmen's Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: Title,
re-enacted

Workers' Compensation Act

2. The said Act, except sections 72, 74 and 83, is amended by striking out "employee", "employee's", "employees" and "employees' " wherever such expressions occur and inserting in lieu thereof in each instance "worker", "worker's", "workers" and "workers' ", as the case may be. Act,
amended
- 3.—(1) Clause 1 (1) (c) of the said Act is repealed and the following substituted therefor: s. 1 (1) (c),
re-enacted
 - (c) "Board" means the Workers' Compensation Board.
 - (2) Clause 1 (1) (j) of the said Act is repealed. s. 1 (1) (j),
repealed
 - (3) Subsection 1 (1) of the said Act is amended by adding thereto the following clause: s. 1 (1),
amended
 - (z) "worker" includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner, a member of a municipal volunteer fire brigade, a member of a municipal volunteer ambulance brigade, an auxiliary member of a police force, a person deemed to be a worker under section 11, and a person who is summoned to assist in controlling and extinguishing a fire under the *Forest Fires Prevention Act* or who assists in any search and rescue operation at the request of and

under the direction of a member of the Ontario Provincial Police Force but, where used in Part I, does not include an outworker or an executive officer of a corporation or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

s. 36 (1) (a, c,
d, e, f),
re-enacted

4.—(1) Clauses 36 (1) (a), (c), (d), (e) and (f) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 1, are repealed and the following substituted therefor:

(a) the necessary expenses of the burial or cremation of the worker, not exceeding \$1,300;

(c) where the widow or widower is the sole dependant, a monthly payment of \$537, effective the 1st day of July, 1982;

(d) where the dependants are a widow or widower and one or more children, a monthly payment of \$537 with an additional monthly payment of \$149 to be increased upon the death of the widow or widower to \$167 for each child under the age of sixteen years, effective the 1st day of July, 1982;

(e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of \$167, effective the 1st day of July, 1982;

(f) where there are dependants other than those mentioned in clauses (c), (d) and (e), and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding, in the whole, \$537 a month effective the 1st day of July, 1982.

Application

(2) Clause 36 (1) (a) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1982.

Idem

(3) Clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, apply to payments accruing after the effective date, but nothing therein entitles any person to claim additional compensation for any period prior to the effective date.

- (4) The amounts payable under clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, do not apply to a lump sum award or to payments due prior to the effective date. Idem
- 5.**—(1) Subsection 36 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 2, is repealed and the following substituted therefor: s. 36 (6), re-enacted
- (6) In addition to any other compensation provided for, the widow or widower, or where the worker leaves no widow or widower, the person described in subsection (5), is entitled to a lump sum of \$1,300. Payment of lump sum
- (2) Subsection 36 (6) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1982. Application
- 6.**—(1) Subsection 42 (2) of the said Act is amended by striking out “and nothing therein entitles any person to more than one adjustment to his rate of compensation under subsection (1)” in the fifth and sixth lines. s. 42 (2), amended
- (2) Section 42 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 30, section 3, is further amended by adding thereto the following subsections: s. 42, amended
- (5) Notwithstanding subsections (1) and (3), where the worker is not working and is in receipt of temporary disability benefits and has continuously received temporary disability benefits for the immediately preceding thirty-six months, the Board shall adjust the rate of compensation being paid by adding thereto an additional 9 per cent of the compensation rate being paid, but the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 45. Further adjustment
- (6) Subsection (5) applies to payments accruing on and after the 1st day of July, 1982, but nothing therein entitles any person to claim additional compensation for any period prior to the day next following the end of the thirty-six month period referred to in subsection (5) and nothing therein entitles any person to more than one adjustment of the rate of compensation under subsection (5). Application
- 7.** Subsections 43 (8) to (11) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 30, section 4, are repealed and the following substituted therefor: s. 43 (8, 9), re-enacted;
s. 43 (10, 11), repealed
- (8) The amounts payable under this section shall be increased if the injury occurred on or before the 30th day of June, 1982, by Increase in payments

adding thereto a factor of 9 per cent effective the 1st day of July, 1982, but the amounts of compensation to which a worker is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings computed under subsection 45 (1) effective on the 1st day of July, 1982, for amounts accruing on and after the 1st day of July, 1982.

Non-
application
of subs. (8)

(9) Subsection (8) does not apply to a lump sum award previously made by the Board under this Part, including an award that was previously commuted or paid as a lump sum under subsection (4), an award under subsection (6) or an award under clause 44 (b).

s. 44,
re-enacted

8.—(1) Section 44 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 5, is repealed and the following substituted therefor:

Minimum
amount of
compensation

44. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured worker is entitled shall not be less than,

(a) for temporary total disability,

(i) \$170 a week, where the worker's average earnings were not less than \$170 a week, from the 1st day of July, 1982, and

(ii) the amount of the worker's earnings, where the worker's average earnings are less than \$170 a week, from the 1st day of July, 1982,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 43 and 45, but the amount of such pension shall not be less than,

(i) for permanent total disability, \$748 a month from the 1st day of July, 1982, and

(ii) for permanent partial disability, an amount proportionate to that mentioned in subclause (i) in accordance with the impairment of earning capacity; or

(c) alternatively to subclause (b) (i), for permanent total disability the benefits which would have been payable from time to time under clauses 36 (1) (c), (d) and (e)

and under section 38, as if the worker had died from the injury.

- (2) Section 44 of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on and after the 1st day of July, 1982, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1982. Application

- 9.—(1) Subsection 45 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 30, section 6, is repealed and the following substituted therefor: s. 45 (1),
re-enacted

(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the worker was remunerated but not so as in any case to exceed the rate of \$24,200 per annum. How average
earnings to
be computed

- (2) Subsection 45 (1) of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on and after the 1st day of July, 1982, and to benefits arising under subsection 42 (1) and subsection 43 (8) of the said Act, as re-enacted by section 7 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 43 (4), or to an award made under subsection 43 (6), or to an award under clause 44 (b) of the said Act, and nothing in subsection (1) of this section entitles any person to claim additional compensation for any period prior to the 1st day of July, 1982. Application

- 10.—(1) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 30, section 7, is repealed and the following substituted therefor: s. 52 (3) (b),
re-enacted

(b) on application, an allowance not exceeding \$316 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$158 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,

- (2) Clause 52 (3) (b) of the said Act, as re-enacted by subsection (1) of this section, applies to payments accruing on and after the 1st day of July, 1982, but nothing therein entitles any person to claim additional payment for any period before the 1st day of July, 1982. Application

s. 55 (1),
re-enacted

- 11.** Subsection 55 (1) of the said Act is repealed and the following substituted therefor:

Board
continued,
name
changed

(1) The body corporate incorporated under the name "Workmen's Compensation Board" is hereby continued under the name "Workers' Compensation Board".

Rights, etc.,
not affected

(1a) The change in the name of the Board does not affect its rights or obligations.

s. 74 (1),
re-enacted

- 12.** Subsection 74 (1) of the said Act is repealed and the following substituted therefor:

Super-
annuation
Fund

(1) The fund known as the "Workmen's Compensation Board Superannuation Fund" for the payment of superannuation allowances or allowances upon the death or disability of an employee or commissioner of the Board, is hereby continued under the name "Workers' Compensation Board Superannuation Fund".

Rights, etc.,
not affected

(1a) The change in the name of the fund does not affect the rights or obligations of the fund.

References
in other
Acts, etc.
R.S.O. 1980,
c. 539

- 13.** A reference to the *Workmen's Compensation Act*, the Workmen's Compensation Board or the Workmen's Compensation Board Superannuation Fund in any Act, regulation, by-law, agreement or other document shall be deemed to be a reference to the *Workers' Compensation Act*, the Workers' Compensation Board and the Workers' Compensation Board Superannuation Fund, respectively.

Commence-
ment

- 14.** This Act comes into force on the day it receives Royal Assent.

Short title

- 15.** The short title of this Act is the *Workmen's Compensation Amendment Act, 1982*.



An Act to amend the
Workmen's Compensation Act

1st Reading

December 10th, 1982

2nd Reading

December 16th, 1982

3rd Reading

December 21st, 1982

THE HON. R. H. RAMSAY
Minister of Labour

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Condominium Act

MR. PHILIP

EXPLANATORY NOTE

The Bill would authorize condominium corporations to make by-laws providing for the collection of special levies from owners of residential units that are occupied by tenants.

BILL 206

1982

An Act to amend the Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 28 (1) of the *Condominium Act*, being chapter 84 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ha) to require owners of units for residential purposes that are leased to pay special levies in respect of the leased units, and to fix the amounts and govern the assessment and collection of the special levies.
- 2.—(1) Subsection 32 (1) of the said Act is amended by adding at the end thereof “and shall pay such special levies as are required by a by-law made under clause 28 (1) (ha)”.

s. 28 (1),
amended

(2) Subsection 32 (4) of the said Act is amended by inserting after “expenses” in the second line “or to pay a special levy”.

s. 32 (4),
amended

(3) Subsection 32 (8) of the said Act is amended by inserting after “expenses” in the fourth line “and special levies, if any”.

s. 32 (8),
amended
3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
4. The short title of this Act is the *Condominium Amendment Act*, 1982.

Short title

An Act to amend the Condominium Act

1st Reading

December 13th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Condominium Act

MR. PHILIP

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill would repeal unproclaimed provisions of the *Condominium Act* that relate to a condominium bureau and, instead, provide for a registrar of condominiums who would give advisory services to the public, maintain a register of the mailing addresses of condominiums and issue licences to condominium managers.

Condominium management would be restricted to licensees, except in the case of managers of a single condominium having no more than 100 units, and the Lieutenant Governor in Council would be empowered to make regulations requiring the posting of bonds. The Association of Condominium Managers may, with the approval of the Lieutenant Governor in Council, set standards for managers.

The Bill also provides a consensual procedure for the review and resolution of disputes within a condominium.

An Act to amend the Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Condominium Act*, being chapter 84 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ya) "tribunal" means The Commercial Registration Appeal Tribunal continued under the *Ministry of Consumer and Commercial Relations Act*.

s. 1 (1),
amended

R.S.O. 1980,
c. 274

2. The said Act is amended by adding thereto the following section:

21a. The corporation shall advise the registrar of condominiums appointed under subsection 56 (1) of its mailing address and shall forthwith advise the registrar of any changes in its mailing address.

s. 21a,
enacted

Mailing
address

3. Section 55 of the said Act is amended by striking out "subsection 56 (8)" in the third line and inserting in lieu thereof "subsection 56 (4), (5) or (6)".

s. 55,
amended

4. Section 56 of the said Act is repealed and the following substituted therefor:

s. 56,
re-enacted

56.—(1) There shall be a registrar of condominiums who shall be appointed by the Lieutenant Governor in Council.

Registrar

(2) The registrar of condominiums may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act.

Powers

(3) The registrar shall,

Duties

(a) provide an information and advisory service to corporations, condominium managers and purchasers and owners of units for residential purposes and issue

information pamphlets in such languages as the registrar considers necessary; and

- (b) maintain and make available to the public a register of the mailing addresses of all corporations in Ontario.

Condominium
manager's
licence

(4) No person shall enter into an agreement to manage the property of a corporation unless he is the holder of a licence issued by the registrar.

Staff
to be
licensed

(5) No holder of a licence issued by the registrar shall employ a person to manage the property of a corporation unless the person is the holder of a licence issued by the registrar.

Conflict of
interest

(6) No person who owns more than two units in a corporation shall enter into an agreement to manage the property of the corporation.

Exception

(7) Despite subsection (4), an individual may, without being the holder of a licence issued by the registrar, enter into an agreement to manage the property of one corporation having no more than 100 units.

Issuance of
licences

(8) The registrar shall issue licences to manage the property of corporations and an applicant for a licence is entitled to a licence or renewal of a licence except where,

- (a) having regard to his financial position the applicant cannot be reasonably expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are or will be, if the applicant is licensed, in contravention of this Act or the regulations.

(9) Subject to subsection (11), the registrar may refuse to issue a licence to an applicant where in the registrar's opinion the applicant is not entitled to registration under subsection (8). Refusal of licence

(10) Subject to subsection (11), the registrar may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under subsection (8) if he were an applicant or where the licensee is in breach of a term or condition of the licence. Idem

(11) Where the registrar proposes, Notice of proposal

(a) to refuse to grant or renew a licence; or

(b) to suspend or revoke a licence,

he shall serve notice of his proposal together with written reasons therefor on the proposed applicant or licensee.

(12) A notice under subsection (11) shall inform the proposed applicant or licensee that he is entitled to a hearing by the tribunal if he mails or delivers, within fifteen days after the notice under subsection (11) is served on him, notice in writing requiring a hearing to the registrar and the tribunal, and he may so require such a hearing. Hearing

(13) Where a proposed applicant or licensee does not require a hearing by the tribunal in accordance with subsection (12), the registrar may carry out the proposal stated in his notice under subsection (11). Where hearing not required

(14) Where a proposed applicant or licensee requires a hearing by the tribunal in accordance with subsection (12), the tribunal shall appoint a time for and hold the hearing, and on the application of the registrar at the hearing may, by order, direct the registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the tribunal considers the registrar ought to take in accordance with this Act and the regulations, and for such purposes the tribunal may substitute its opinion for that of the registrar. Hearing

(15) The tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purpose of this Act. Terms and conditions

(16) The registrar, the applicant or licensee who has required a hearing and such other persons as the tribunal may specify are parties to the proceedings before the tribunal under this section. Parties

Continuation
of
registration

(17) Where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his registration shall be deemed to continue,

(a) until renewal is granted; or

(b) where he is served with notice that the registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and where a hearing is required, until the tribunal has made its order.

Complaints

(18) Where the registrar receives a complaint in respect of a person licensed to manage the property of condominium corporations and so requests in writing, the person receiving the request shall furnish the registrar with such information respecting the matter complained of as the registrar requires.

Inspections

(19) The registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a person licensed to manage properties to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

s. 57,
re-enacted;
s. 58,
repealed

5. Sections 57 and 58 of the said Act are repealed and the following substituted therefor:

Review
officers

57.—(1) The Lieutenant Governor in Council shall appoint review officers who shall perform the duties and exercise the powers given to them by this Act and the regulations and the officers so appointed shall be public servants within the meaning of the *Public Service Act*.

R.S.O. 1980,
c. 418

Reference
to
tribunal

(2) Where there is a dispute between a corporation and an owner, between two or more owners, between a corporation and the condominium manager or between an owner and the condominium manager in respect of any matter relating to this Act, the declaration, by-laws or rules, the parties to the dispute may, prior to the commencement of any court proceeding in respect of the same matter, refer the matter in dispute to the tribunal for arbitration and resolution.

Written
notice

(3) Within fourteen clear days after the matter has been referred to the tribunal, the tribunal shall give written notice to all parties of the date, time and place for the consideration of the matter in dispute and shall designate a review officer to hear the matter in dispute.

Inquiry
by review
officer

(4) For the purpose of a hearing under subsection (3), the review officer may inquire into any matter relevant to the subject-

matter of the dispute, whether or not previously brought to his attention by the parties.

(5) Upon completing the hearing, the review officer may make an order ordering any party to the hearing to do or to refrain from doing any act that is the subject-matter of the hearing. Order by review officer

(6) An order under subsection (5) shall state that every party to the hearing is entitled to appeal the order to the tribunal and shall specify the place where the appeal may be filed. Appeal to tribunal

(7) On the request of any party to the hearing, the review officer shall file a copy of any order made by him under subsection (5) in the office of the Registrar of the Supreme Court under section 19 of the *Statutory Powers Procedure Act* that applies thereto. Filing copy of order

(8) Except as provided in subsection (7), the *Statutory Powers Procedure Act* does not apply to proceedings before the review officer. Application of R.S.O. 1980, c. 484

(9) Every party to a hearing may appeal a review officer's order by filing a notice of appeal with the tribunal within twenty-one days after being served with notice of the review officer's order. Notice of appeal

(10) On an appeal, the tribunal may proceed by way of a hearing *de novo* and, after the hearing, the tribunal may make any order it considers just and equitable and, for such purposes, the tribunal shall substitute its order for that of the review officer. Powers of tribunal

(11) The registrar may appoint a provincial advisory committee to advise him in matters relating to the management of the property of corporations and the conduct of licensees. Advisory committee

(12) The provincial advisory committee shall consist of, Membership of committee

(a) a chairman;

(b) three members who represent owners of units for residential purposes; and

(c) three members nominated by the Association of Condominium Managers.

(13) The members of the provincial advisory committee shall be appointed for terms of one, two or three years and, having served a term, shall not be reappointed for at least two years. Terms of office

Vacancy

(14) When a vacancy occurs on the provincial advisory committee during a term of office, the registrar may fill the vacancy for the unexpired portion of the term.

s. 59 (1),
amended

- 6.** Subsection 59 (1) of the said Act is amended by adding thereto the following clause:

(sa) requiring licensees, or any class thereof, to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds.

s. 59a,
enacted

- 7.** The said Act is further amended by adding thereto the following section:

Regulations

59a. Subject to the approval of the Lieutenant Governor in Council, the Association of Condominium Managers may make regulations setting standards for the management of the property of corporations, including standards for the conduct of condominium managers.

Commence-
ment

- 8.** This Act comes into force on the day it receives Royal Assent.

Short title

- 9.** The short title of this Act is the *Condominium Amendment Act, 1982*.



An Act to amend the Condominium Act

1st Reading

December 15th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Human Tissue Gift Act

MR. VAN HORNE

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill is intended to facilitate the obtaining of human organs for transplant purposes.

An automated central register of consents and objections to the use of organs for transplant purposes after death is contemplated, to allow physicians to ascertain deceased persons' wishes more readily.

Where no objection by a deceased person has been registered, and there is no reason to believe that the deceased had or that the deceased's next of kin have any objections, removal of organs for transplant is authorized without the specific consent that otherwise would be required. Section 29 of the *Coroners Act* deals with the removal of human pituitary glands, used in the treatment of persons suffering from growth hormone deficiencies, in a similar fashion.

BILL 208

1982

An Act to amend the Human Tissue Gift Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part II of the *Human Tissue Gift Act*, being chapter 210 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

8a.—(1) In this section,

ss. 8a, 8b,
enacted
Interpre-
tation

- (a) “consent” means a consent given under clause 4 (1) (a);
- (b) “objection” means an objection made under subsection 8 (3).

(2) The Minister of Health shall maintain a register of consents and objections that are filed with the Ministry of Health or the Ministry of Transportation and Communications.

Register of
consents and
objections

(3) A record of a consent or objection contained in the register,

Nature and
amendment
of register

- (a) shall be stored electronically or on a magnetic medium so as to be capable of being retrieved by reference to the person who gave the consent or made the objection;
- (b) shall be amended or deleted where the person who gave the consent or made the objection so requests; and
- (c) may be deleted where the Minister of Health is satisfied that the person who gave the consent or made the objection has died.

(4) No person shall have access to a record of a consent or objection except,

Access to
register

- (a) the person who gave the consent or made the objection, and his or her personal representative;

(b) a physician who *bona fide* requires the information in connection with a proposed transplant, or a person acting on the physician's behalf; and

(c) an employee of the Minister of Health whose duties require access to the record.

Removal of
organs for
transplant

8b.—(1) Notwithstanding anything else in this Part, but subject to subsection (3), the physician attending on a person who has died or whose death is imminent and who, in the opinion of the physician, is incapable of giving a consent by reason of injury or disease, may consent to the removal after the person's death, for use for transplant purposes, of tissue from the person's body.

Consent
is full
authority

(2) A consent given under subsection (1) is binding upon the person's death and is, subject to subsection (3) and section 6, full authority for the removal for use for transplant purposes of tissue from the person's body, notwithstanding that no consent otherwise required by law is given.

Objections

(3) No person shall give a consent under subsection (1) or remove tissue from a person's body after death for transplant purposes where,

(a) the register maintained under subsection 8a (2) shows that the person who died has made an objection to the removal of the tissue from his or her body after death for transplant purposes; or

(b) the physician attending on the person or the person removing the tissue have actual knowledge that the person who died objected or that a surviving spouse, parent, child, brother, sister or personal representative objects to the body being so dealt with.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Human Tissue Gift Amendment Act, 1982*.

An Act to amend the
Human Tissue Gift Act

1st Reading

December 16th, 1982

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Inflation Restraint Act, 1982

MR. WRYE

EXPLANATORY NOTES

SECTION 1. The amendment would make the Act subject to the *Statutory Powers Procedure Act*, thus guaranteeing the right to a hearing and the right to receive reasons for a decision from the Board, and would also add a right of appeal to Cabinet from any decision of the Board.

SECTION 2. The amendment would exempt from the transitional provisions bargaining groups that submitted to binding arbitration on or before September 21, 1982.

SECTION 3. The amendment would fix a 9 per cent transitional increase, rather than setting a maximum at that level, and would remove long-outstanding contracts from the Board's jurisdiction, returning them to the collective bargaining process.

SECTION 4.—Subsection 1. This amendment would eliminate the differential treatment of union and non-union workers, giving both groups mandatory increases of 5 per cent in the control year.

Subsection 2. The amendment would provide for a minimum increase of \$1,200 and eliminate the discretionary increase. Increases would then range from 12 per cent at \$10,000 to 5% at \$24,000 and above.

Subsection 3. Restrictions on seniority and merit increases for persons whose compensation rate exceeds \$35,000 are eliminated.

SECTION 5. The amendment would allow for ordinary collective bargaining on non-monetary issues in collective agreements that are extended by the Act.

SECTION 6. Consequential amendments.

SECTION 7. The amendment would bring the OHIP fee schedule into the category of administered prices, thus making increases reviewable.

SECTION 8.—Subsection 1. The amendment would require the Minister to publish the economic criteria by which price increases are reviewed.

Subsection 2. The amendment would permit the review of increases in administered prices which take effect after September 21, 1982 but were announced before that date.

Subsection 3. The amendment would allow any person to refer a price increase to the Board for investigation. The existing section confines this power to the Minister.

Subsection 4. The amendment is complementary to subsection (3).

SECTION 9. The amendment would restrict Ontario Hydro rates to a 5 per cent increase during the control period and would restrict increases in residential rents during the control period to 5 per cent, without cost pass-throughs.

BILL 209

1982

An Act to amend the Inflation Restraint Act, 1982

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (4) of the *Inflation Restraint Act, 1982*, being chapter 55, is repealed and the following substituted therefor: s. 3 (4),
re-enacted

(4) Before making an order, decision or determination that the Board is authorized to make, the Board shall hold a hearing, and the *Statutory Powers Procedure Act* applies to such a hearing. Hearings
R.S.O. 1980,
c. 484

(4a) Upon the petition of any person interested, filed with the Clerk of the Executive Council within thirty days after the date of any order, decision or determination of the Board, the Lieutenant Governor in Council may, Petition to
L.G. in C.

(a) confirm, vary or rescind the whole or any part of the order, decision or determination; or

(b) require the Board to hold a new public hearing into the whole or any part of the matter in respect of which the order, decision or determination of the Board was made,

and the decision of the Board after the public hearing ordered under clause (b) is not subject to petition under this subsection.

(4b) Any person who has filed a petition under subsection (4a) may at any time withdraw the petition by filing a notice of withdrawal with the Clerk of the Executive Council. Withdrawal
of petition

2. Section 9 of the said Act is amended by adding thereto the following subsection: s. 9,
amended

(2) Subsection (1) does not apply to a compensation plan that expired before the 1st day of October, 1982 and became the subject of binding arbitration on or before the 21st day of September, 1982. Exception
re binding
arbitration

s. 10,
amended

- 3.** Section 10 of the said Act is amended by striking out “not more than” in the last lines of clause (a) and subclause (b) (ii), and by striking out “Board, in its discretion, may authorize” in the fourth line of subclause (b) (i) and inserting in lieu thereof “parties to the collective agreement may agree”.

s. 12 (1),
re-enacted

- 4.—(1)** Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

Increase in
compensation
rates under
extended plan

(1) Notwithstanding any other Act, every compensation plan to which this Part applies shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the first to occur of either,

(a) the day that, but for section 11, the plan would expire; or

(b) the day immediately preceding the plan’s anniversary date referred to in clause 11 (b),

shall be increased by 5 per cent for the twelve-month period immediately following the day determined in accordance with clauses (a) and (b).

s. 12 (2),
amended

- (2) Subsection 12 (2) of the said Act is amended by striking out “may, in his discretion” in the seventh line, in the seventh line of clause (a) and in the fourth line of clause (b), and inserting in lieu thereof “shall”, and by striking out “\$1,000” in the fifth line, in the ninth line, in the third-last line of clause (b) and in the last line, and inserting in lieu thereof “\$1,200”.

s. 12 (3-5),
repealed

- (3) Subsections 12 (3), (4) and (5) of the said Act are repealed.

s. 13 (b),
repealed

- 5.** Clause 13 (b) of the said Act is repealed.

s. 14 (1),
re-enacted

- 6.—(1)** Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Disputed
matters

- (1) Where the parties to a collective agreement,

(a) cannot agree on the value to be placed on a proposed change to any terms and conditions of the compensation plan equivalent to an increase in compensation rates, but are agreed on all other aspects of the proposed change; or

(b) have agreed on all aspects of a proposed change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates, including the value thereof,

either party may apply to the Board in accordance with such procedure as the Board specifies to have the disputed matters resolved or, in the case of a proposed change referred to in clause (b), to have the proposed change reviewed by the Board, and the Board shall, in accordance with this Act and in its discretion, determine the value to be placed on a proposed change referred to in clause (a) or (b), provided that,

- (c) for the period referred to in clause 10 (a) or subclause 10 (b) (ii), the value of such proposed change does not constitute an increase that is equivalent to more than the increase referred to in those provisions; and
- (d) for the period referred to in subsection 12 (1), the value of such proposed change does not constitute an increase that is equivalent to more than the increase permitted under section 12.

(2) Subsection 14 (3) of the said Act is repealed.

s. 14 (3),
repealed

7. Clause 26 (a) of the said Act is amended by adding thereto the following subclause:

s. 26 (a),
amended

- (iii) the amounts payable by the Ontario Health Insurance Plan under the *Health Insurance Act* for insured services rendered by physicians and practitioners.

R.S.O. 1980,
c. 197

8.—(1) Subsection 27 (1) of the said Act is repealed and the following substituted therefor:

s. 27 (1),
re-enacted

(1) The Minister shall establish, and may from time to time amend, economic criteria by which price increases shall be reviewed and,

Minister to
establish
and publish
economic
criteria

- (a) shall publish the criteria and any amendments in *The Ontario Gazette*;
- (b) shall circulate the criteria and any amendments to every public agency and public regulatory agency; and
- (c) may give public notice of the criteria and any amendments in such manner as the Minister considers appropriate.

(2) Subsection 27 (2) of the said Act is amended by inserting after "occurs" in the third line "or takes effect".

s. 27 (2),
amended

(3) Section 27 of the said Act is amended by adding thereto the following subsection:

s. 27,
amended

Idem

(2a) Any person may request that the Board investigate a price increase where the price increase occurs or takes effect on or after the 21st day of September, 1982 and before the later of,

(a) the 1st day of January, 1984; and

(b) in the case of a public agency or a person regulated by a public regulatory agency that has implemented a price increase on or after the 21st day of September, 1982 and prior to the 1st day of January, 1984, the day one year from the last such increase.

s. 27 (3),
re-enacted

(4) Subsection 27 (3) of the said Act is repealed and the following substituted therefor:

Powers and
duties of the
Board

(3) Where a price increase is referred to the Board by the Minister or where a person requests an investigation under subsection (2a), the Board shall,

(a) investigate and report on the price increase and determine whether it conforms to the criteria;

(b) where the Board determines that the price increase does not conform to the criteria, determine, or request the public agency or public regulatory agency concerned to determine, the maximum price increase which would so conform; and

(c) report to the Minister and, in the case of an investigation requested under subsection (2a), notify the person of the result of its investigation and determination under clauses (a) and (b).

ss. 35a, 35b,
enacted

9. The said Act is amended by adding thereto the following sections:

R.S.O. 1980,
c. 332, s. 37,
amended

35a. Section 37 of the *Ontario Energy Board Act*, being chapter 332 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Rate
increases
restricted

(11) Notwithstanding anything else in this section, during the period from the 21st day of September, 1982 to the 31st day of December, 1983 Ontario Hydro shall not increase any of its rates or charges for any customer so as to exceed an annual rate of increase of 5 per cent based on the rates and charges in effect on the 21st day of September, 1982.

R.S.O. 1980,
c. 452,
s. 125a,
enacted

35b. The *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

125a. Despite anything else in this Part, during the period from ^{Idem} the 21st day of September, 1982 to the 31st day of December, 1983, no landlord shall increase the rent charged for a rental unit by more than 5 per cent of the last rent that was charged for an equivalent rental period.

10. This Act shall be deemed to have come into force on the 21st day of ^{Commence-} September, 1982. ^{ment}
11. The short title of this Act is the *Inflation Restraint Amendment* ^{Short title} *Act, 1982.*

An Act to amend the
Inflation Restraint Act, 1982

1st Reading

December 16th, 1982

2nd Reading

3rd Reading

MR. WRYE

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act respecting Affirmative Action

Ms. BRYDEN

EXPLANATORY NOTE

The Bill would require that all employers with more than twenty employees (unless exempted by regulation or by individual order) establish joint committees of workers and managers, to prepare affirmative action programs which would become binding upon the employer when approved by the Director of the Affirmative Action Office or by the Affirmative Action Tribunal. Such employers would also be required to file reports at intervals concerning matters relating to the participation of women in their work forces.

Failure to establish a joint committee or comply with a binding affirmative action program would lead to a compliance order by the Director or by the Tribunal. Failure to comply with such an order would constitute an offence punishable by a maximum fine of \$25,000 (\$500,000 in the case of a corporation). Higher fines could be imposed on subsequent convictions.

The Affirmative Action Office is intended to assist joint committees in the preparation of affirmative action programs, to analyze the programs for the Director, to monitor their implementation, to identify occupational categories in which women are now under-represented, including new occupations, to provide research, support and public educational services and generally to promote affirmative action.

The Bill provides for a comprehensive skills training and apprenticeship program, designed to increase the numbers of women in occupational categories in which they are now under-represented to at least 50 per cent.

BILL 210

1982

An Act respecting Affirmative Action

WHEREAS unequal and discriminatory conditions of ^{Preamble} employment for women impose a great economic and social burden both on the women directly affected and on the larger community;

AND WHEREAS women's average employment earnings are less than sixty per cent of men's average earnings in Ontario and women's right to participate fully in the labour force is severely limited by barriers such as the lack of adequate universally accessible child care and other support services;

AND WHEREAS it is public policy in Ontario to promote the economic equality of all working people;

AND WHEREAS it is public policy in Ontario to improve women's access to new occupations and to occupations in which they have traditionally been under-represented;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "affirmative action" means action intended to improve the economic status of women and overcome barriers to their equal participation in the work force;
- (b) "affirmative action program" means a program prepared under subsection 8 (1);
- (c) "Director" means the Director of the Affirmative Action Office;
- (d) "joint committee" means a committee established under subsection 7 (1);
- (e) "Minister" means the Minister of Labour;

(f) "Ministry" means the Ministry of Labour;

(g) "prescribed" means prescribed by the regulations;

(h) "regulations" means the regulations made under this Act;

(i) "Tribunal" means the Affirmative Action Tribunal.

Adminis-
tration

2. The Minister is responsible for the administration of this Act.

Affirmative
Action
Office

3. There shall be an office in the Ministry of Labour to be called the Affirmative Action Office, and the Affirmative Action Office shall,

(a) assist joint committees, on their request, in the preparation of affirmative action programs;

(b) receive and analyze affirmative action programs and make recommendations to the Director respecting their approval;

(c) monitor the implementation of affirmative action programs;

(d) conduct research into matters relating to the participation of women in the work force; and

(e) promote affirmative action by programs of public education and other means.

Director

4. There shall be a Director of the Affirmative Action Office, and the Director shall perform the duties and exercise the powers given to the Director under this or any other Act.

Affirmative
Action
Tribunal

5.—(1) There shall be a tribunal to be known as the Affirmative Action Tribunal, composed of,

(a) two representatives of labour;

(b) two representatives of business; and

(c) one member of the Ontario Human Rights Commission,

who shall be appointed by the Lieutenant Governor in Council.

Duties

(2) The Tribunal shall hold such hearings and perform such other duties as are assigned to it under this Act.

(3) The member of the Tribunal who is a member of the Chairperson Ontario Human Rights Commission shall be the chairperson of the Tribunal.

(4) The members of the Tribunal shall elect one or more of Vice-chairperson their number as vice-chairperson or vice-chairpersons.

(5) Three members of the Tribunal, one of whom shall be the Quorum chairperson or vice-chairperson, constitute a quorum and may exercise all the powers of the Tribunal notwithstanding any vacancy in the membership.

(6) The chairperson shall have general supervision and direc- Duties tion over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as the circumstances require.

(7) The Tribunal shall prepare and annually publish a sum- Publishing reports mary of its decisions and the reasons therefor.

(8) The Lieutenant Governor in Council may appoint a Registrar of the Tribunal Registrar for the Tribunal who shall perform such duties as are assigned to him or her under this Act or by the chairperson of the Tribunal.

(9) The Registrar of the Tribunal and every member of the Administ- ration of oaths Tribunal has power to administer oaths and affirmations for the purpose of its proceedings.

6. Every employer who employs more than twenty employees Employers to report re participation of women, etc. shall provide to the Affirmative Action Office, at the prescribed intervals, such information relating to employment practices, rates of pay, occupational categories and numbers of men and women in those categories, recruitment, promotion and other related matters as is prescribed.

7.—(1) Every employer who employs more than twenty Joint committee employees shall establish and maintain a joint committee consisting of at least four persons, of whom at least half shall be employees who do not exercise managerial functions, to be selected by the employees they are to represent or, where there is a trade union or trade unions representing the employees, by the trade union or trade unions.

(2) A proportion of the employees' representatives on a joint Women to be represented committee shall be women and the proportion shall be at least equivalent to the proportion of women in the workplace.

(3) The Director may by order exempt an employer from the Director may exempt employer requirement to establish and maintain a joint action committee

under subsection (1) if he or she is of the opinion that the representation of women in all the employer's occupational categories is satisfactory.

Review and
withdrawal of
exemption

(4) The Director may review an order made under subsection (3) and may withdraw the order if he or she is of the opinion that the representation of women in all the employer's occupational categories is no longer satisfactory.

Sub-
committees

(5) An employer may establish subcommittees of the joint committee for different departments or divisions of the employer's business.

Entitlement
to time
from work

(6) A member of a joint committee or subcommittee is entitled to such time from his or her work as is necessary to attend meetings of the committee and to carry out his or her duties under subsection 8 (1), and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at his or her regular or premium rate as may be proper.

Affirmative
action
program

8.—(1) A joint committee shall, within six months of the day on which it is established or within such longer period as the Director authorizes, prepare a program to remedy discriminatory practices and encourage the recruitment and training of women by the employer, and the program,

- (a) shall set targets with timetables for the employment of women in all the employer's occupational categories;
- (b) shall provide for regular review by the joint committee of the progress made in the achievement of targets set under clause (a); and
- (c) may provide, at the employer's expense, for employee upgrading programs, employee training programs, child care assistance or subsidies and other support services to encourage the full participation of women in the employer's workforce.

Employer
to share
information
with joint
committee

(2) The employer shall furnish the joint committee with the information provided to the Affirmative Action Office under section 6, and shall also give the joint committee full access, on a confidential basis, to the employer's employee records and records relating to recruitment, pay and promotion.

Assistance by
Affirmative
Action
Office

(3) A joint committee may request the assistance of the Affirmative Action Office in preparing an affirmative action program.

Director
to approve
affirmative
action program

9.—(1) An affirmative action program prepared under subsection 8 (1) shall be submitted to the Director for approval.

(2) On receiving an affirmative action program for approval, ^{Powers of Director} the Director shall by order,

- (a) approve the affirmative action program;
- (b) approve the affirmative action program subject to modifications; or
- (c) refer the affirmative action program back to the joint committee for modification and resubmission within a specified time.

(3) A joint action committee may appeal to the Tribunal from ^{Appeal to Tribunal} an order made by the Director under clause (2) (b) or (c) within thirty days from the date of the order.

(4) Where an order is appealed under subsection (3), the Tri- ^{Hearing and order} bunal shall appoint a time for and hold a hearing into the matter and may,

- (a) confirm the Director's order;
- (b) approve the affirmative action program; or
- (c) approve the affirmative action program subject to modifications.

10.—(1) Where a joint committee cannot agree upon the ^{Application to Tribunal where joint committee cannot agree} terms of an affirmative action program, either the employees' representatives or the employers representatives may apply to the Tribunal for an order fixing the terms of and approving the affirmative action program or fixing certain terms of the affirmative action program and where the employees' or employers representatives do not apply, the joint committee shall apply to the Tribunal for such an order.

(2) Where an application is made under subsection (1), the ^{Hearing and order} Tribunal shall appoint a time for and hold a hearing into the matter and may,

- (a) fix the terms of and approve the affirmative action program; or
- (b) fix certain terms of the affirmative action program and refer it back to the joint committee for completion and submission to the Director within a specified time.

11.—(1) An affirmative action program is binding upon an ^{When affirmative action program takes effect} employer,

(a) when the Director or the Tribunal approves it; or

(b) when the Director or the Tribunal approves it, subject to modifications.

Final version
to be filed

(2) Where an affirmative action program is approved with or without modifications, a copy of the final version shall be filed with the Director.

Binding
affirmative
action program
deemed special
program;
1981, c. 53
Complaint
by individual
or group

(3) A binding affirmative action program shall be deemed to be a special program that satisfies the requirements of subsection 13 (1) of the *Human Rights Code, 1981*.

12.—(1) An individual or group of individuals may make a complaint to the Director respecting an employer's alleged failure to comply with subsection 7 (1) or with a binding affirmative action program.

Order to
comply

(2) Where the Director believes on reasonable and probable grounds that an employer has failed to comply with section 6 or subsection 7 (1), or is failing to comply with a binding affirmative action program, the Director may order the employer to comply with section 6 or subsection 7 (1) or the affirmative action program, as the case may be.

Notice of
proposal

(3) Where the Director proposes to make an order under subsection (2), the Director shall serve notice of the proposed order on the employer and on the individual or one of the individuals, if any, who made a complaint, or, where there was no complaint, on a representative of the employees, together with written reasons therefor.

Request for
hearing

(4) A notice under subsection (3) shall inform the employer named in the order that the employer is entitled to a hearing by the Tribunal if the employer mails or delivers to the Director and the Tribunal, within fifteen days after the notice under subsection (3) is served on him or her, notice in writing requiring a hearing.

Failure to
request
hearing

(5) Where the employer upon whom a notice is served under subsection (3) does not require a hearing, the Director may carry out the proposed order described in the notice.

Hearing

(6) Where an employer requests a hearing by the Tribunal in accordance with subsection (4), the Tribunal shall appoint a time for and hold the hearing and may by order direct the Director to carry out the proposed order or to take such action as the Tribunal considers the Director ought to take in accordance with this Act and for such purposes the Tribunal may substitute its opinion for that of the Director.

(7) The individuals, if any, who made a complaint under sub-^{Idem}section (1), or, where there was no complaint, the representative of the employees on whom notice of the proposed order was served under subsection (3), are entitled to attend the hearing and make representations to the Tribunal.

(8) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act.

13.—(1) The Minister may by order appoint a person to make an investigation into any matter to which this Act applies, as specified in the Minister's order, and the person appointed shall report the result of the investigation to the Minister.

(2) For the purposes of an investigation ordered under subsection (1), the person making it has the powers of a commissioner under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

14.—(1) Every person who, knowingly,

- (a) provides false information or fails to provide information under section 6;
- (b) furnishes false information in an investigation under this Act;
- (c) fails to comply with an order of the Director or of the Tribunal made under this Act; or
- (d) obstructs a person making an investigation under section 12.

is guilty of an offence and on conviction is liable to a fine, upon a first conviction, of not more than \$25,000, and upon a subsequent conviction, of not more than \$50,000.

(2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed upon the corporation is, upon a first conviction, \$500,000, and upon a subsequent conviction, \$750,000.

(3) Where a corporation is convicted under subsection (1), each director or officer of the corporation who authorized, permitted or acquiesced in the offence is a party to the offence. Directors and officers

15.—(1) It shall be deemed to be a condition of every contract entered into by or on behalf of the Crown or any of its agencies and of every subcontract entered into in the perfor-

mance thereof that this Act will be complied with in the course of performing the contract.

Idem;
government
grants
and loans

(2) It shall be deemed to be a condition of every grant, contribution, loan or guarantee made by or on behalf of the Crown or any of its agencies thereof that this Act will be complied with in the course of carrying out the purposes for which the grant, contribution, loan or guarantee was made.

Sanctions

(3) Where a person is convicted of an offence under subsection 14 (1) and the offence constitutes a breach of a condition under this section,

(a) the breach of condition is sufficient grounds for cancellation of the contract, grant, contribution, loan or guarantee; and

(b) the Crown and its agencies shall not enter into any further contract with or make any further grant, contribution, loan or guarantee to the person.

Identifi-
cation of
occupational
categories

16.—(1) The Affirmative Action Office shall identify, on the basis of information reported under section 6 and on the basis of its own research, those occupational categories, including new occupations, in which women are under-represented.

Comprehen-
sive skills
training and
apprentice-
ship plan

(2) The Government of Ontario shall develop a comprehensive skills training and apprenticeship program designed to increase the number of women in each of the occupations and occupational categories identified under subsection (1) to at least 50 per cent and to ensure that sufficient numbers of women are trained to meet anticipated needs for skilled tradespersons.

Skills
training and
affirmative
action fund

(3) The Government of Ontario may direct that any fund established under clause 17 (d) be devoted to,

(a) training and upgrading allowances for employees;

(b) child care subsidies for persons involved in apprenticeship or other job training programs;

(c) the provision of counsellors familiar with the special needs of women in the workforce and the barriers to their full participation in the workforce; or

(d) any similar purpose intended to promote affirmative action.

Annual
report

(4) The Affirmative Action Office shall, after the close of each year, file with the Minister an annual report upon the skills

training and apprenticeship program and the implementation of affirmative action programs.

(5) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Idem

17. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms and providing for their use;
- (b) exempting any class of employer from this Act or any provision of this Act;
- (c) prescribing the information to be provided under section 6 and prescribing the intervals at which the information is to be provided;
- (d) requiring employers or any class of employers to contribute to a skills training and affirmative action fund or funds.

18. This Act binds the Crown and its agencies. Crown bound

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

20. The short title of this Act is the *Affirmative Action Act*, Short title
1982.

An Act respecting Affirmative Action

1st Reading

December 16th, 1982

2nd Reading

3rd Reading

MS. BRYDEN

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Insurance Act

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to make insurers responsible for the debts incurred by persons who are appointed by the insurers as insurance agents.

BILL 211

1982

An Act to amend the Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 346a,
enacted

346a. An insurer who appoints a person to act as an agent of the insurer in Ontario for the purpose of enabling that person to obtain an insurance agent's licence is jointly and severally liable during the term of the agency for any debts incurred by that person while acting or holding himself out as an agent of the insurer. Liability for
debts of
agent

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Insurance Amendment Act, 1982*. Short title

An Act to amend the Insurance Act

1st Reading

December 17th, 1982

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

BILL 212

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Loan and Trust Corporations Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

BILL 212

1982

An Act to amend the Loan and Trust Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 77 (1) of the *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 77 (1),
amended

(d) “voting share” means any security, as defined in the *Securities Act*, other than a debt security, of a company carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing and includes, R.S.O. 1980,
c. 466

(i) a security currently convertible into a voting share or into another security that is convertible into a voting share,

(ii) a currently exercisable option or right to acquire a voting share or another security that is convertible into a voting share, or

(iii) a security carrying an option or right referred to in subclause (ii).

- (2) Section 77 of the said Act is amended by adding thereto the following subsection: s. 77,
amended

(4) For the purposes of sections 78 to 82, a company shall be deemed to be controlled by another person or company or by two or more companies if voting securities of the first-mentioned company carrying more than 10 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company or by or for the benefit of the other companies. Deemed
control

2. Section 81 of the said Act is repealed and the following substituted therefor: s. 81,
re-enacted

81.—(1) No transfer or issue of shares of a corporation shall be entered in the books of the corporation maintained under section 91 until the consent of the Registrar has been filed with the corporation, if,

- (a) when the total number of shares of a class of voting shares of the corporation held by a person and by other shareholders associated with him, if any, exceeds 10 per cent of the total number of the issued and outstanding shares of that class, the transfer or issue would increase the percentage of shares of that class held by such person and by other shareholders associated with him, if any; or
- (b) when the total number of shares of a class of voting shares of the corporation held by a person and by other shareholders associated with him, if any, is 10 per cent or less of the total number of issued and outstanding shares of that class, the transfer or issue would cause the total number of shares of that class held by such person and by other shareholders associated with him, if any, to exceed 10 per cent of the issued and outstanding shares of that class,

and until the consent of the Registrar is filed with the corporation, no person shall, in person or by proxy, exercise the voting rights pertaining to any of the voting shares that are held by or in the name of the shareholder or by or in the name of any person associated with the shareholder.

Idem

(2) For the purposes of this section, a transfer or issue of shares of a holding company shall be deemed to be a transfer or issue of shares of a corporation to which this section applies, if,

- (a) when the total number of shares of a class of voting shares of the company held by a person and by other shareholders associated with him, if any, exceeds 10 per cent of the total number of the issued and outstanding shares of that class, the transfer or issue would increase the percentage of shares of that class held by such person and by other shareholders associated with him, if any; or
- (b) when the total number of shares of a class of voting shares of the company held by a person and by other shareholders associated with him, if any, is 10 per cent or less of the total number of issued and outstanding shares of that class, the transfer or issue would cause the total number of shares of that class held by such person and by other shareholders associated with him,

if any, to exceed 10 per cent of the issued and outstanding shares of that class,

and notwithstanding that ownership of shares has been entered in the books of the corporation maintained under section 91, until the consent of the Registrar is filed with the corporation, no person shall, in person or by proxy, exercise the voting rights pertaining to any voting shares of the corporation that are held by or in the name of the holding company or by or in the name of any person associated with the holding company.

(3) A person to whom shares are to be transferred or issued in circumstances that require the consent of the Registrar under subsection (1) or (2) may apply, in writing, to the Registrar for his consent. Application to Registrar

(4) The Registrar may from time to time, in writing, direct a corporation to obtain from any person in whose name a share of the corporation is held or beneficially owned a declaration containing information, Declaration may be required

- (a) concerning the ownership or beneficial ownership of such share;
- (b) whether such share is held or beneficially owned by a person who is associated with any other person and the name of that other person where applicable;
- (c) concerning the ownership or beneficial ownership of the shares of a holding company; and
- (d) concerning such other related matters as are specified by the Registrar,

and as soon as possible after the receipt of a direction from the Registrar under this subsection, the directors of the corporation shall comply therewith and every person who is requested by the corporation to provide a declaration containing information referred to in this subsection shall forthwith comply with the request by submitting the completed declaration to the Registrar.

(5) For the purposes of this section, Interpretation

- (a) a person is deemed to be associated with another person if there exists between those persons any relationship referred to in subsection 77 (2) that, if both such persons were shareholders, would cause those shareholders to be deemed to be associated pursuant to that subsection;

- (b) "holding company" means a company, individual or trust that, by itself or with any company, individual or trust associated with it, if any, holds or controls 10 per cent or more of the total number of issued and outstanding shares of a class of voting shares of a corporation.

Regulations

(6) The Lieutenant Governor in Council may make regulations prescribing the form and content of the declaration required to be submitted under subsection (4) and requiring the use of any form so prescribed.

Refusal of consent

(7) The Registrar may refuse his consent under subsection (1) or (2) where, in his opinion, it would be in the public interest to do so and without limiting the generality of the foregoing the Registrar may refuse his consent where the shareholder or holding company or any person associated with the shareholder or holding company,

(a) is or has been bankrupt;

R.S.O. 1980,
c. 466

(b) has been convicted of a criminal offence, an offence under this Act or an offence under the *Securities Act*;

(c) is or has been subject to a cease trading order under the *Securities Act*; or

(d) is under examination under section 152.

Hearing

(8) Where the Registrar proposes to refuse his consent under subsection (1) or (2), he shall forthwith advise the applicant and he shall give the applicant a reasonable time to be heard by him before making his decision.

L.G. in C.
may confirm,
vary or
rescind
decision

(9) Upon the petition of the applicant, filed with the Clerk of the Executive Council within twenty-eight days after the date of the decision of the Registrar under subsection (8), the Lieutenant Governor in Council may,

(a) confirm, vary or rescind the whole or any part of such decision; or

(b) require the Registrar to hold a new public hearing of the whole or any part of the application to the Registrar upon which such decision of the Registrar was made,

and the decision of the Registrar after the public hearing ordered under clause (b) is not subject to petition under this section.

(10) Except as provided in subsection (9), a decision of the Registrar under this section is final and binding and no such decision or decision as confirmed or varied under subsection (9) shall be stayed, varied or set aside by any court. Decision final and binding

(11) A consent of the Registrar under subsection (1) or (2) takes effect on the date set out in the consent and the effective date may be a date prior to the date the consent is given. Effective date of consent

(12) The Registrar, with the approval of the Lieutenant Governor in Council, may by order exempt any corporation, company or other person from the application of this section, in whole or in part, on such terms and conditions as are set out in the order and when any such order is filed with the corporation named in the order, it shall be deemed to be a consent of the Registrar for the purposes of this section so long as the terms and conditions of the order have been complied with. Exemptions

3. The said Act is amended by adding thereto the following section: s. 158a, enacted

158a.—(1) Notwithstanding any other provision of this Act, the Lieutenant Governor in Council, without holding a hearing, may order, Orders imposing limitations and conditions or for taking possession and control

- (a) that a corporation's registry shall be subject to such limitations or conditions as are set out in the order; or
- (b) that the Registrar take possession and control of the assets of a corporation,

where, in the opinion of the Lieutenant Governor in Council, one or more of the following has occurred:

1. There has been, on or after the 21st day of December, 1982, a transfer or issue of shares to which subsection 81 (1) or (2) applies and the consent of the Registrar has not been obtained under section 81.
2. The corporation has defaulted on payment of any of its liabilities.
3. The corporation is not complying with this Act or the regulations made under this Act.
4. The corporation's assets are not satisfactorily accounted for.
5. The corporation's assets are not sufficient, having regard to all the circumstances, to give adequate protection to the corporation's depositors.

6. There exists any practice of or state of affairs within the corporation that is or may be prejudicial to the public interest or to the interests of the corporation's depositors, creditors or shareholders.

Delivery
of order

(2) Where the Lieutenant Governor in Council makes an order under subsection (1), the Registrar shall deliver a copy of the order to an officer of the corporation.

Order
final and
binding

(3) An order of the Lieutenant Governor in Council under subsection (1) shall take effect immediately and the order is final and binding and no such order or any order made under subsection 160a(1) confirming or varying such order shall be stayed, varied or set aside by any court.

Appointment
of appraiser

(4) For the purposes of this section, the Lieutenant Governor in Council may appoint such persons as the Lieutenant Governor in Council considers necessary to value and appraise the assets and liabilities of the corporation and report upon its condition and its ability, or otherwise, to meet its liabilities.

Limitation

(5) Where the Lieutenant Governor in Council makes an order under clause (1) (b) and the corporation is other than a provincial corporation, the order shall be limited to the possession and control of assets in Ontario.

Application

(6) Where the Lieutenant Governor in Council makes an order under subsection (1) and the corporation is other than a provincial corporation, section 159 applies to the corporation as if it were a provincial corporation.

s. 159 (1),
amended

- 4.—(1) Subsection 159 (1) of the said Act is amended by inserting after "158" in the second line "or 158a" and by inserting after "rehabilitation" in the fifth line "or where an order is made under paragraph 1 of section 158a, its continued operation".

s. 159 (6),
amended

- (2) Subsection 159 (6) of the said Act is amended by striking out "rehabilitation proceedings under this section and sections 157 and 158" in the first and second lines and inserting in lieu thereof "proceedings under this section, sections 157 and 158 and clause 158a (b)".

s. 160a,
enacted

5. The said Act is further amended by adding thereto the following section:

L.G. in C.
may confirm,
vary or
rescind
orders

160a.—(1) Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within sixty days after the date of any order made under subsection 158a (1), the Lieutenant Governor in Council may confirm, vary or rescind the whole or any part of such order and an order

confirming or varying an order made under subsection 158*a* (1) is final and binding.

(2) Nothing in this section or section 158*a* affects the right of the Lieutenant Governor in Council to vary or rescind, at any time, an order made under subsection 158*a* (1). Saving

6.—(1) Subsection 165 (3) of the said Act is amended by striking out “other than a provincial corporation” in the second line. s. 165 (3),
amended

(2) Section 165 of the said Act is amended by adding thereto the following subsection: s. 165,
amended

(7) Where under this or any other provision of this Act, a term, limitation or condition is imposed on a corporation’s registry, the corporation shall not transact or undertake business in contravention of any such term, limitation or condition. Effect
of terms

7. Section 193 of the said Act is amended by striking out “request” where it appears in the first and fourth lines and inserting in lieu thereof, in each instance, “order”. s. 193,
amended

8. Sections 204 and 205 of the said Act are repealed and the following substituted therefor: ss. 204, 205,
re-enacted

204.—(1) Where it appears to the Registrar that any person or corporation has failed to comply with or is violating any decision or any provision of this Act or the regulations or an order made under this Act, the Registrar may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights that the Registrar may have, apply to a judge of the High Court for an order, Order for
compliance

(*a*) directing the person or corporation to comply with the decision, provision or order or restraining the person or corporation from violating the decision, provision or order; and

(*b*) directing the directors and officers of the person or corporation to cause the person or corporation to comply with or to cease violating the decision, provision or order,

and upon the application, the judge may make such order, or such other order as he thinks fit.

(2) An appeal lies to the Divisional Court from an order made under subsection (1). Appeal

General
penalty

205.—(1) Unless otherwise provided, every person who, knowingly,

- (a) furnishes false information in any application under this Act or in any statement, declaration, return or answer required to be furnished by or under this Act or the regulations made under this Act;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations made under this Act,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Idem

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed on the corporation is \$100,000.

Penalty for
carrying on
business
without
licence

(3) Every person who, without being registered under this Act,

- (a) carries on business as a loan corporation or a trust company in Ontario; or
- (b) does or performs any one or more of the acts constituting the business of a loan corporation or a trust company in Ontario,

is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.

Penalty for
default in
making returns

(4) In case of default in making a return required by this Act to be made within a limited time, the corporation or the person required by this Act to make the return shall, in addition to the fine provided by subsection (1), incur a further fine of \$5,000 for every month or part thereof during which the corporation or person neglects to file the return so required.

Limitation

(5) No proceeding in relation to an offence under this Act shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Registrar.

Application

9. The *Loan and Trust Corporations Act*, as amended by this Act, applies to every transfer or issue of shares to be completed or made

on or after the 21st day of December, 1982, notwithstanding that an agreement or other arrangement with respect to the transfer or issue of the share was made or executed before that date.

- 10.** This Act shall be deemed to have come into force on the 21st day of December, 1982. Commence-
ment
- 11.** The short title of this Act is the *Loan and Trust Corporations Amendment Act, 1982*. Short title

An Act to amend the
Loan and Trust Corporations Act

1st Reading

December 21st, 1982

2nd Reading

December 21st, 1982

3rd Reading

December 21st, 1982

THE HON. R. G. ELGIE
Minister of Consumer and Commercial
Relations

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the Ministry of Colleges and
Universities Act**

THE HON. B. STEPHENSON
Minister of Education and Minister of Colleges and Universities

EXPLANATORY NOTE

The Bill requires that no university incur a cumulative deficit in its operating fund in any fiscal year in excess of 2 per cent of its revenue for the year.

The Bill also requires that universities make financial reports to the Minister in such form, containing such information and by such dates as the Minister may require.

The Bill also provides for the appointment of one or more persons to investigate and report on the financial situation of a university.

The Lieutenant Governor in Council is authorized to appoint a university supervisor for a university where, having regard to the report of the investigation, the Lieutenant Governor in Council is of the opinion that the financial situation of the university is such that action should be taken to improve it.

The university supervisor is required to provide advice and guidance to the governing body and the chief executive officer of the university.

The university supervisor may request the governing body or the chief executive officer of the university to do any act that they have authority to do, and may do the act on their behalf if they fail to comply with his request.

Provision is made for reports by a university supervisor to the Minister.

The appointment of a university supervisor continues in force until terminated by order of the Lieutenant Governor in Council.

Investigators and university supervisors are protected against personal liability.

An Act to amend the Ministry of Colleges and Universities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: Part II,
(ss. 11-15),
enacted

PART II

11.—(1) In this Part,

Interpre-
tation

- (a) “operating fund” means a fund that is a self-balancing accounting entity that accounts for the cost of instruction, academic support services, administration, plant maintenance and other general expenses of a university and that is financed from operating revenue;
- (b) “operating revenue” means the revenue from tuition and other related fees, operating grants and other general income;
- (c) “university” means a university or post-secondary educational institution listed in the Schedule.

(2) No university shall incur in any fiscal year a cumulative deficit in its operating fund that is in excess of 2 per cent of its operating revenue for the year. No deficit

(3) A university shall make such financial reports to the Minister, in such form, containing such information and by such dates as the Minister may require. Financial
reports

12.—(1) Where the Lieutenant Governor in Council, having regard to a financial report referred to in subsection 11 (3) and any other financial information that may be available, is of the opinion that a university is in contravention of subsection 11 (2), Investigators

he may appoint an investigator for the university to investigate and report on the financial situation of the university.

Powers of
investigator

(2) An investigator may,

- (a) examine and audit all the books, accounts and records of the university; and
- (b) investigate and require financial information from any person in possession of information in respect of the university,

at any time, but only for the purpose of this Part.

Obstruction

(3) No person shall obstruct an investigator or withhold or destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation.

Report

(4) The Minister shall cause a copy of the report of an investigation to be delivered to the chairman of the governing body of the university.

University
supervisor

13.—(1) The Lieutenant Governor in Council may appoint a university supervisor for a university where, having regard to the content of the report of an investigation under section 12, the Lieutenant Governor in Council is of the opinion that the university is in contravention of subsection 11 (2) and that the financial situation at the university warrants such action.

Term of
office

(2) The appointment of a university supervisor is valid until terminated by order of the Lieutenant Governor in Council.

Duty of
university
supervisor

(3) A university supervisor appointed for a university shall give advice and guidance to the governing body and the chief executive officer of the university for the purpose of improving the financial situation of the university.

Duty of
governing
body and
chief execu-
tive officer

(4) It is the duty of the governing body and the chief executive officer of a university to receive and consider the advice and guidance of a university supervisor appointed for the university.

Action on
behalf of
governing
body, etc.

(5) Where a university supervisor appointed for a university requests in writing that the governing body or the chief executive officer do any act that they have authority to do and, in the opinion of the university supervisor, they fail to do so, the university supervisor may do the act on behalf of the governing body or the chief executive officer and the act is as effective as if done by the governing body or the chief executive officer, as the case may be.

(6) During the term of office of a university supervisor appointed for a university, no act of the governing body is valid unless approved in writing by the university supervisor. Action by governing body

(7) A university supervisor appointed for a university has the same rights as the governing body and the chief executive officer of the university in respect of the documents, records and information of the university. Right of access

(8) A university supervisor may report to the Minister from time to time and shall report to the Minister in such form and manner, with such information and at such times, as the Minister may require. Reports

14.—(1) No action or other proceeding for damages or otherwise shall be instituted against an investigator or a university supervisor appointed under this Act for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Protection from personal liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an investigator or a university supervisor to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection (1) had not been enacted. Crown not relieved of liability
R.S.O. 1980, c. 393

15. In the event of conflict between any provision of this Part and the provision of any other Act, the provisions of this Part prevail. Conflict

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1982*. Short title

SCHEDULE

Algoma College Association
Brock University
Carleton University
The Dominican or Friar Preachers of Ottawa College
Lakehead University
Laurentian University of Sudbury
Le Collège de Hearst
McMaster University
Nipissing College
Ontario College of Art
Ontario Institute for Studies in Education
Queen's University
Ryerson Polytechnical Institute
Trent University
University of Guelph
University of Ottawa
University of Toronto
University of Waterloo
University of Western Ontario
University of Windsor
Wilfrid Laurier University
York University

An Act to amend the Ministry of
Colleges and Universities Act

1st Reading

December 21st, 1982

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act for the Protection of Windbreaks

MR. MCGUIGAN

EXPLANATORY NOTE

The Bill provides that where a person injures or removes a tree planted in a windbreak and is convicted of trespass or theft in connection with the injury to or removal of the tree, the court may require the person to replace the tree.

BILL 214

1982

An Act for the Protection of Windbreaks

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "occupier" means an occupier as defined in the *Trespass to Property Act*; R.S.O. 1980, c. 511
- (b) "windbreak" means a group of trees planted and maintained for purposes of soil conservation and snow management.

2.—(1) Where a person is convicted of an offence under subsection 2 (1) of the *Trespass to Property Act* or of theft under the *Criminal Code* (Canada) and the court is satisfied that the offence involved damage to or the removal of a tree planted in a windbreak, the court may, in addition to imposing any other penalty authorized by law, make an order for the satisfaction of damages suffered by the occupier of the windbreak. Order for satisfaction of damages R.S.C. 1970, c. C-34

(2) An order for the satisfaction of damages under subsection (1) may contain provisions requiring the convicted person to, *Idem*

- (a) supply three nursery trees, of the same kind as the trees damaged or removed from the windbreak, for every tree damaged or removed from the windbreak;
- (b) plant the nursery trees in the windbreak at the season and in the places that the occupier of the windbreak may direct;
- (c) care for the planted nursery trees for a period of one year; and
- (d) replace any planted nursery trees that die within one year of being planted.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Windbreaks Protection Act, 1982*.



An Act for the Protection of Windbreaks

1st Reading

December 21st, 1982

2nd Reading

3rd Reading

MR. MCGUIGAN

(Private Member's Bill)

Bill 215

An Act respecting Crown Trust Company

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

1st Reading January 24th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would enlarge the powers of the Registrar of Loan and Trust Corporations in respect of the management of the assets and obligations of Crown Trust Company and provide the authority necessary for the winding down or orderly discontinuance of its affairs.

Bill 215

1983

An Act respecting Crown Trust Company

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Inter-
pre-
tation

- (a) “fiduciary” means fiduciary as defined in subsection 144 (1) of the *Loan and Trust Corporations Act*;
- (b) “instrument” means instrument as defined in subsection 144 (1) of the *Loan and Trust Corporations Act*;
- (c) “purchaser” means a person who enters into an agreement with the Registrar under subsection 4 (2);
- (d) “Registrar” means the Registrar appointed under the *Loan and Trust Corporations Act*;
- (e) “substituted fiduciary” means a person who enters into an agreement with the Registrar under subsection 4 (3).

R.S.O. 1980,
c. 249

2. The purpose of this Act is to facilitate the preservation of certain assets and obligations of Crown Trust Company, including deposit accounts and trust property, through arrangements for their sale or management.

Purpose

3.—(1) Without limiting the powers and authority of the Registrar under section 159 of the *Loan and Trust Corporations Act*, and notwithstanding anything contained therein, while the Registrar is in possession and control of the assets of Crown Trust Company under section 158a of the *Loan and Trust Corporations Act*,

Powers of
Registrar

- (a) the Registrar has full power and authority to conduct, manage, operate and administer the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company on its be-

half for all purposes, including without limitation for the purpose of the winding down or orderly discontinuance of its business, affairs, undertaking and operations and the effecting of arrangements under section 4;

- (b) the Registrar has the sole and exclusive right to exercise all powers and authority of Crown Trust Company and its officers, directors and shareholders; and
- (c) no officer, director or shareholder of Crown Trust Company may exercise any power or authority in that capacity.

Agreement
for
management

(2) The Registrar may, with the approval of the Lieutenant Governor in Council, enter into one or more agreements with any person or persons providing for the exercise by such person or persons of all or any of the powers and authority of the Registrar under this section to conduct, manage, operate or administer all or any part of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company on such terms and conditions, and for such remuneration, as may be provided for in the agreement.

Remuneration

(3) Any remuneration payable to any person under an agreement entered into under this Act and any expenses incurred by the Registrar in carrying out the provisions of this Act may be paid out of the assets of Crown Trust Company or any income therefrom or any proceeds of disposition thereof.

Authority of
Registrar

4.—(1) The Registrar has full power and authority, for and in the name of and on behalf of Crown Trust Company, by agreement under subsection (2) or (3),

- (a) to sell, assign, transfer or otherwise dispose of all or any part or parts of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company; and
- (b) to appoint any person as the substituted fiduciary under any instrument in respect of which Crown Trust Company is a fiduciary, whether named therein or not.

Agreement
for transfer
of assets

(2) For the purposes of exercising his powers and authority under clause (1) (a), the Registrar may at any time and from time to time enter into one or more agreements with any person or persons providing for the sale, assignment, transfer or other disposition to such person or persons of all or such part or parts of the business, affairs, undertaking, operations, assets,

liabilities and obligations of Crown Trust Company as may be specified in the agreement or agreements for such consideration, and on such terms and conditions, as the Registrar considers to be appropriate.

(3) For the purposes of exercising his powers and authority under clause (1) (b), the Registrar may at any time and from time to time enter into one or more agreements with any person or persons providing for the appointment of such person or persons as the substituted fiduciary under such instrument or instruments as may be specified or described in the agreement or agreements in respect of which Crown Trust Company is a fiduciary, whether named therein or not, for such consideration, and on such terms and conditions, as the Registrar considers to be appropriate.

Agreement for performance of fiduciary function

(4) An agreement entered into by the Registrar under subsection (2) or (3) does not have the effect unless it is approved by the Lieutenant Governor in Council.

Approval of L.G. in C.

5.—(1) The provisions of the *Loan and Trust Corporations Act* respecting the sale and purchase of the assets of a trust company, including without limitation the provisions of sections 134 to 145 thereof, do not apply to any sale and purchase of any of the assets of Crown Trust Company under this Act.

Application of R.S.O. 1980, c. 249

(2) The provisions of the *Bulk Sales Act* do not apply to any sale and purchase of any of the assets of Crown Trust Company under this Act.

Application of R.S.O. 1980, c. 52

(3) Where, as a result of the implementation of an agreement entered into with the Registrar under section 4, the purchaser or substituted fiduciary thereunder is in contravention of any provision of the *Loan and Trust Corporations Act*, the Lieutenant Governor in Council may, by order, waive or vary the application of the provision for such period and subject to such terms and conditions as the Lieutenant Governor in Council specifies in the order.

Waiver of provisions of R.S.O. 1980, c. 249

(4) An order made under subsection (3) shall be deemed to be of an administrative and not of a legislative nature.

Nature of order

6.—(1) At and from the effective time of any agreement entered into with the Registrar under subsection 4 (3), every obligation and trust in respect of which Crown Trust Company is a fiduciary under an instrument or instruments specified or described in the agreement vests in, binds and may be enforced against the substituted fiduciary as fully and effectually as if the substituted fiduciary were originally named as fiduciary therein.

Substitution of fiduciary

Substitution
of court
appointed
fiduciaries

(2) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem*,

- (a) that are issued by a court in Ontario to Crown Trust Company;
- (b) that are specified or described in an agreement entered into with the Registrar under subsection 4 (3), and
- (c) from which, at the effective time of such agreement, Crown Trust Company has not been finally discharged,

the substituted fiduciary shall, as and from that time, be substituted for Crown Trust Company for all purposes.

Substitution
of fiduciaries
in invested
trusts

(3) Where an instrument specified or described in any agreement entered into with the Registrar under subsection 4 (3) names Crown Trust Company as a fiduciary or as the holder of a power of appointment, and the instrument takes effect after the effective time of such agreement, the substituted fiduciary under such agreement shall be deemed to be named therein in the place of Crown Trust Company.

Enforcement
of obligations

7. Where a purchaser or substituted fiduciary assumes an obligation or liability of Crown Trust Company, the obligation or liability becomes an obligation or liability of the purchaser or substituted fiduciary and may be enforced against the purchaser or substituted fiduciary as if he were a party thereto.

Payments to
Crown Trust
Company

8. Any debtor of Crown Trust Company may make payments to Crown Trust Company until the Registrar gives or causes to be given notice in writing that payment shall be made to a purchaser or substituted fiduciary, and thereupon the debtor's obligation is owed to the purchaser or substituted fiduciary.

Winding up

9. While the Registrar is in possession and control of the assets of the Crown Trust Company under an order made under section 158a of the *Loan and Trust Corporations Act*,

R.S.O. 1980,
c. 249

- (a) no person other than the Registrar may apply to a court for an order for the winding up of the Crown Trust Company under Part VI of the *Corporations Act* and any application for such winding up commenced, other than by the Registrar, after the 1st day of January, 1983 shall be deemed to be stayed until the Lieutenant Governor in Council may by order otherwise direct; and

R.S.O. 1980,
c. 95

- (b) no meeting of shareholders shall be called for the purpose of passing a resolution requiring the winding up of the Crown Trust Company under Part VI of the *Corporations Act* and any such resolution passed at any meeting of shareholders shall be deemed not to become effective until the Lieutenant Governor in Council may by order direct.

10.—(1) No action or other proceeding shall be instituted, and no judgment shall be enforced, against the Registrar or anyone acting under the authority of the Registrar, including without limitation any purchaser or any substituted fiduciary or any person who has entered into an agreement with the Registrar under section 3, for any act or omission of the Registrar under Act in good faith.

Immunity of
Registrar

(2) No sale, assignment, transfer or other disposition of all or any part or parts of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company under this Act shall be held invalid, set aside, declared void, prohibited, enjoined, directed or otherwise reviewed by any court at the instance of any person other than the Registrar.

Proceedings
by persons
other than
Registrar

11. The Lieutenant Governor in Council may make regulations authorizing all such acts or things not specifically provided for in this Act as, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to carry out effectively the purposes of this Act.

Regulations
to
supplement
Act

12. This Act comes into force on the day it receives Royal Assent.

Commencement

13. The short title of this Act is the *Crown Trust Company Act, 1983*.

Short title

Bill 215

An Act respecting Crown Trust Company

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading January 24th, 1983

2nd Reading January 27th, 1983

3rd Reading

Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTE

The Bill would enlarge the powers of the Registrar of Loan and Trust Corporations in respect of the management of the assets and obligations of Crown Trust Company and provide the authority necessary for the winding down or orderly discontinuance of its affairs.

Bill 215

1983

An Act respecting Crown Trust Company

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "fiduciary" means fiduciary as defined in subsection 144 (1) of the *Loan and Trust Corporations Act*;
- (b) "instrument" means instrument as defined in subsection 144 (1) of the *Loan and Trust Corporations Act*;
- (c) "purchaser" means a person who enters into an agreement with the Registrar under subsection 4 (2);
- (d) "Registrar" means the Registrar appointed under the *Loan and Trust Corporations Act*;
- (e) "substituted fiduciary" means a person who enters into an agreement with the Registrar under subsection 4 (3).

R.S.O. 1980,
c. 249

2. The purpose of this Act is to facilitate the preservation of certain assets and obligations of Crown Trust Company, including deposit accounts and trust property, through arrangements for their sale or management.

Purpose

3.—(1) Without limiting the powers and authority of the Registrar under section 159 of the *Loan and Trust Corporations Act*, and notwithstanding anything contained therein, while the Registrar is in possession and control of the assets of Crown Trust Company under section 158a of the *Loan and Trust Corporations Act*,

Powers of
Registrar

- (a) the Registrar has full power and authority to conduct, manage, operate and administer the business, affairs, undertaking, operations, assets, liabilities

and obligations of Crown Trust Company on its behalf for all purposes, including without limitation for the purpose of the winding down or orderly discontinuance of its business, affairs, undertaking and operations and the effecting of arrangements under section 4;

- (b) the Registrar has the sole and exclusive right to exercise all powers and authority of Crown Trust Company and its officers, directors and shareholders; and
- (c) no officer, director or shareholder of Crown Trust Company may exercise any power or authority in that capacity.

Agreement
for
management

(2) The Registrar may, with the approval of the Lieutenant Governor in Council, enter into one or more agreements with any person or persons providing for the exercise by such person or persons of all or any of the powers and authority of the Registrar under this section to conduct, manage, operate or administer all or any part of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company on such terms and conditions, and for such reasonable remuneration, as may be provided for in the agreement.

Remuneration

(3) Any reasonable remuneration payable to any person under an agreement entered into under this Act and any expenses incurred by the Registrar in carrying out the provisions of this Act may be paid out of the assets of Crown Trust Company or any income therefrom or any proceeds of disposition thereof.

Agreements
to be tabled

(4) Any agreement entered into under subsection (2) shall be laid before the Assembly by the Minister of Consumer and Commercial Relations upon its approval by the Lieutenant Governor in Council, if the Assembly is then in session, or if not, at the next ensuing session.

Authority of
Registrar

4.—(1) The Registrar has full power and authority, for and in the name of and on behalf of Crown Trust Company, by agreement under subsection (2) or (3),

- (a) to sell, assign, transfer or otherwise dispose of all or any part or parts of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company; and
- (b) to appoint any person as the substituted fiduciary under any instrument in respect of which Crown

Trust Company is a fiduciary, whether named therein or not.

(2) For the purposes of exercising his powers and authority under clause (1) (a), the Registrar may at any time and from time to time enter into one or more agreements with any person or persons providing for the sale, assignment, transfer or other disposition to such person or persons of all or such part or parts of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company as may be specified in the agreement or agreements for such consideration, and on such terms and conditions, as the Registrar considers to be appropriate.

Agreement
for transfer
of assets

(3) For the purposes of exercising his powers and authority under clause (1) (b), the Registrar may at any time and from time to time enter into one or more agreements with any person or persons providing for the appointment of such person or persons as the substituted fiduciary under such instrument or instruments as may be specified or described in the agreement or agreements in respect of which Crown Trust Company is a fiduciary, whether named therein or not, for such consideration, and on such terms and conditions, as the Registrar considers to be appropriate.

Agreement
for
performance
of fiduciary
function

(4) An agreement entered into by the Registrar under subsection (2) or (3) does not have effect unless it is approved by the Lieutenant Governor in Council.

Approval of
L.G. in C.

(5) Any agreement entered into under subsection (2) or (3) shall be laid before the Assembly by the Minister of Consumer and Commercial Relations upon its approval by the Lieutenant Governor in Council, if the Assembly is then in session, or if not, at the next ensuing session.

Agreements
to be tabled

5.—(1) The provisions of the *Loan and Trust Corporations Act* respecting the sale and purchase of the assets of a trust company, including without limitation the provisions of sections 134 to 145 thereof, do not apply to any sale and purchase of any of the assets of Crown Trust Company under this Act.

Application
of R.S.O.
1980, c. 249

(2) The provisions of the *Bulk Sales Act* do not apply to any sale and purchase of any of the assets of Crown Trust Company under this Act.

Application
of R.S.O.
1980, c. 52

(3) Where, as a result of the implementation of an agreement entered into with the Registrar under section 4, the purchaser or substituted fiduciary thereunder is in contravention of any provision of the *Loan and Trust Corporations Act*, the Lieutenant Governor in Council may, upon being satisfied that a


Waiver of
provisions of
R.S.O. 1980,
c. 249

waiver or variation of the application of the provision is necessary in the public interest and to further the purpose of this Act, by order waive or vary the application of the provision for such period and subject to such terms and conditions as the Lieutenant Governor in Council specifies in the order.

Idem

(4) Where Crown Trust Company is in contravention of any provision of the *Loan and Trust Corporations Act* while the Registrar is in possession and control of its assets, the Lieutenant Governor in Council may, upon being satisfied that a waiver or variation of the application of the provision is necessary in the public interest and to further the purpose of this Act, by order waive or vary the application of the provision for such period and subject to such terms and conditions as the Lieutenant Governor in Council specifies in the order.

Application
of
R.S.O. 1980,
c. 446

(5) An order made under subsection (3) or (4) is a regulation within the meaning of the *Regulations Act*. 

Substitution
of fiduciary

6.—(1) At and from the effective time of any agreement entered into with the Registrar under subsection 4 (3), every obligation and trust in respect of which Crown Trust Company is a fiduciary under an instrument or instruments specified or described in the agreement vests in, binds and may be enforced against the substituted fiduciary as fully and effectually as if the substituted fiduciary were originally named as fiduciary therein.

Substitution
of court
appointed
fiduciaries

(2) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem*,

- (a) that are issued by a court in Ontario to Crown Trust Company;
- (b) that are specified or described in an agreement entered into with the Registrar under subsection 4 (3); and
- (c) from which, at the effective time of such agreement, Crown Trust Company has not been finally discharged,

the substituted fiduciary shall, as and from that time, be substituted for Crown Trust Company for all purposes.

Substitution
of fiduciaries,
other
instruments

(3) Where an instrument specified or described in any agreement entered into with the Registrar under subsection 4 (3) names Crown Trust Company as a fiduciary or as the holder of a power of appointment, and the instrument takes effect after the effective time of such agreement, the substituted fiduciary

under such agreement shall be deemed to be named therein in the place of Crown Trust Company.

7. Where a purchaser or substituted fiduciary assumes an obligation or liability of Crown Trust Company, the obligation or liability becomes an obligation or liability of the purchaser or substituted fiduciary and may be enforced against the purchaser or substituted fiduciary as if he were a party thereto.

Enforcement of obligations

8. Any debtor of Crown Trust Company may make payments to Crown Trust Company until the Registrar gives or causes to be given notice in writing that payment shall be made to a purchaser or substituted fiduciary, and thereupon the debtor's obligation is owed to the purchaser or substituted fiduciary.

Payments to Crown Trust Company

9. While the Registrar is in possession and control of the assets of the Crown Trust Company under an order made under section 158a of the *Loan and Trust Corporations Act*,

Winding up
R.S.O. 1980,
c. 249

(a) no person other than the Registrar may apply to a court for an order for the winding up of the Crown Trust Company under Part VI of the *Corporations Act* and any application for such winding up commenced, other than by the Registrar, after the 1st day of January, 1983 shall be deemed to be stayed until the Lieutenant Governor in Council may by order otherwise direct; and

R.S.O. 1980,
c. 95

(b) no meeting of shareholders shall be called for the purpose of passing a resolution requiring the winding up of the Crown Trust Company under Part VI of the *Corporations Act* and any such resolution passed at any meeting of shareholders shall be deemed not to become effective until the Lieutenant Governor in Council may by order direct.

10.—(1) No action or other proceeding shall be instituted and no judgment shall be enforced against a purchaser or a substituted fiduciary or a person who has entered into an agreement with the Registrar under section 3 for any act or omission of the Registrar under this Act.

Immunity of purchaser, substituted fiduciary

(2) No sale, assignment, transfer or other disposition of all or any part or parts of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company under this Act shall be held invalid, set aside, declared void, prohibited, enjoined, directed or otherwise reviewed by any court at the instance of any person other than the Registrar.

Proceedings by persons other than Registrar

Immunity of
Registrar

(3) No action or other proceeding shall be instituted and no judgment shall be enforced against the Registrar or anyone acting under the authority of the Registrar for any act or omission of such person under this Act, except an action against the Registrar otherwise available in law for the recovery of damages incurred as a result of any failure of the Registrar to act honestly and in good faith or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in discharging the duties and responsibilities of the Registrar in comparable circumstances having regard to the public interest.

Regulations
to
supplement
Act

11. The Lieutenant Governor in Council may make regulations authorizing all such acts or things not specifically provided for in this Act as, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to carry out effectively the purposes of this Act.

Commencement

12. This Act comes into force on the day it receives Royal Assent.

Short title

13. The short title of this Act is the *Crown Trust Company Act, 1983*.

Bill 215

*(Chapter 7
Statutes of Ontario, 1983)*

An Act respecting Crown Trust Company

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	January 24th, 1983
<i>2nd Reading</i>	January 27th, 1983
<i>3rd Reading</i>	February 1st, 1983
<i>Royal Assent</i>	February 1st, 1983

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Bill 215

1983

An Act respecting Crown Trust Company

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “fiduciary” means fiduciary as defined in subsection 144 (1) of the *Loan and Trust Corporations Act*;
- (b) “instrument” means instrument as defined in subsection 144 (1) of the *Loan and Trust Corporations Act*;
- (c) “purchaser” means a person who enters into an agreement with the Registrar under subsection 4 (2);
- (d) “Registrar” means the Registrar appointed under the *Loan and Trust Corporations Act*;
- (e) “substituted fiduciary” means a person who enters into an agreement with the Registrar under subsection 4 (3).

R.S.O. 1980,
c. 249

2. The purpose of this Act is to facilitate the preservation of certain assets and obligations of Crown Trust Company, including deposit accounts and trust property, through arrangements for their sale or management.

Purpose

3.—(1) Without limiting the powers and authority of the Registrar under section 159 of the *Loan and Trust Corporations Act*, and notwithstanding anything contained therein, while the Registrar is in possession and control of the assets of Crown Trust Company under section 158a of the *Loan and Trust Corporations Act*,

Powers of
Registrar

- (a) the Registrar has full power and authority to conduct, manage, operate and administer the business, affairs, undertaking, operations, assets, liabilities

and obligations of Crown Trust Company on its behalf for all purposes, including without limitation for the purpose of the winding down or orderly discontinuance of its business, affairs, undertaking and operations and the effecting of arrangements under section 4;

- (b) the Registrar has the sole and exclusive right to exercise all powers and authority of Crown Trust Company and its officers, directors and shareholders; and
- (c) no officer, director or shareholder of Crown Trust Company may exercise any power or authority in that capacity.

Agreement
for
management

(2) The Registrar may, with the approval of the Lieutenant Governor in Council, enter into one or more agreements with any person or persons providing for the exercise by such person or persons of all or any of the powers and authority of the Registrar under this section to conduct, manage, operate or administer all or any part of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company on such terms and conditions, and for such reasonable remuneration, as may be provided for in the agreement.

Remuneration

(3) Any reasonable remuneration payable to any person under an agreement entered into under this Act and any expenses incurred by the Registrar in carrying out the provisions of this Act may be paid out of the assets of Crown Trust Company or any income therefrom or any proceeds of disposition thereof.

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to be tabled

(4) Any agreement entered into under subsection (2) shall be laid before the Assembly by the Minister of Consumer and Commercial Relations upon its approval by the Lieutenant Governor in Council, if the Assembly is then in session, or if not, at the next ensuing session.

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Registrar

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- (b) to appoint any person as the substituted fiduciary under any instrument in respect of which Crown

Trust Company is a fiduciary, whether named therein or not.

(2) For the purposes of exercising his powers and authority under clause (1) (a), the Registrar may at any time and from time to time enter into one or more agreements with any person or persons providing for the sale, assignment, transfer or other disposition to such person or persons of all or such part or parts of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company as may be specified in the agreement or agreements for such consideration, and on such terms and conditions, as the Registrar considers to be appropriate.

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for transfer
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(3) For the purposes of exercising his powers and authority under clause (1) (b), the Registrar may at any time and from time to time enter into one or more agreements with any person or persons providing for the appointment of such person or persons as the substituted fiduciary under such instrument or instruments as may be specified or described in the agreement or agreements in respect of which Crown Trust Company is a fiduciary, whether named therein or not, for such consideration, and on such terms and conditions, as the Registrar considers to be appropriate.

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L.G. in C.

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1980, c. 249

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Waiver of
provisions of
R.S.O. 1980,
c. 249

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Application
of
R.S.O. 1980,
c. 446

(5) An order made under subsection (3) or (4) is a regulation within the meaning of the *Regulations Act*.

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of fiduciary

6.—(1) At and from the effective time of any agreement entered into with the Registrar under subsection 4 (3), every obligation and trust in respect of which Crown Trust Company is a fiduciary under an instrument or instruments specified or described in the agreement vests in, binds and may be enforced against the substituted fiduciary as fully and effectually as if the substituted fiduciary were originally named as fiduciary therein.

Substitution
of court
appointed
fiduciaries

(2) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem*,

- (a) that are issued by a court in Ontario to Crown Trust Company;
- (b) that are specified or described in an agreement entered into with the Registrar under subsection 4 (3); and
- (c) from which, at the effective time of such agreement, Crown Trust Company has not been finally discharged,

the substituted fiduciary shall, as and from that time, be substituted for Crown Trust Company for all purposes.

Substitution
of fiduciaries,
other
instruments

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8. Any debtor of Crown Trust Company may make payments to Crown Trust Company until the Registrar gives or causes to be given notice in writing that payment shall be made to a purchaser or substituted fiduciary, and thereupon the debtor's obligation is owed to the purchaser or substituted fiduciary.

Payments to
Crown Trust
Company

9. While the Registrar is in possession and control of the assets of the Crown Trust Company under an order made under section 158a of the *Loan and Trust Corporations Act*,

Winding up

R.S.O. 1980,
c. 249

(a) no person other than the Registrar may apply to a court for an order for the winding up of the Crown Trust Company under Part VI of the *Corporations Act* and any application for such winding up commenced, other than by the Registrar, after the 1st day of January, 1983 shall be deemed to be stayed until the Lieutenant Governor in Council may by order otherwise direct; and

R.S.O. 1980,
c. 95

(b) no meeting of shareholders shall be called for the purpose of passing a resolution requiring the winding up of the Crown Trust Company under Part VI of the *Corporations Act* and any such resolution passed at any meeting of shareholders shall be deemed not to become effective until the Lieutenant Governor in Council may by order direct.

10.—(1) No action or other proceeding shall be instituted and no judgment shall be enforced against a purchaser or a substituted fiduciary or a person who has entered into an agreement with the Registrar under section 3 for any act or omission of the Registrar under this Act.

Immunity of
purchaser,
substituted
fiduciary

(2) No sale, assignment, transfer or other disposition of all or any part or parts of the business, affairs, undertaking, operations, assets, liabilities and obligations of Crown Trust Company under this Act shall be held invalid, set aside, declared void, prohibited, enjoined, directed or otherwise reviewed by any court at the instance of any person other than the Registrar.

Proceedings
by persons
other than
Registrar

Immunity of
Registrar

(3) No action or other proceeding shall be instituted and no judgment shall be enforced against the Registrar or anyone acting under the authority of the Registrar for any act or omission of such person under this Act, except an action against the Registrar otherwise available in law for the recovery of damages incurred as a result of any failure of the Registrar to act honestly and in good faith or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in discharging the duties and responsibilities of the Registrar in comparable circumstances having regard to the public interest.

Regulations
to
supplement
Act

11. The Lieutenant Governor in Council may make regulations authorizing all such acts or things not specifically provided for in this Act as, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to carry out effectively the purposes of this Act.

Commencement

12. This Act comes into force on the day it receives Royal Assent.

Short title

13. The short title of this Act is the *Crown Trust Company Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1983

An Act to revise the Mechanics' Lien Act

THE HON. R. MCMURTRY
Attorney General

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EXPLANATORY NOTES

In May 1981, the Attorney General's Advisory Committee on the Draft Construction Lien Act was established. It was composed of lawyers, expert in lien law, who were suggested by organizations representing workers, material suppliers, contractors, subcontractors, architects, engineers, commercial sureties, owners and other consumers of construction improvements, those who finance construction, municipalities, the Crown and the courts. On April 20, 1982, the Report of the Committee setting out suggested legislation and providing a clause by clause explanation was tabled in the Legislative Assembly and made available to the public. The Bill is substantially similar to the draft legislation set out in the Report.

Among the principal features of the Bill are the following:

1. A waiver of lien rights by a supplier of services or materials to an improvement is void (s. 4).
2. The trust provisions, intended to protect those who supply services or materials from the insolvency of those in their chain of payment, have been clarified and simplified. Two new trust obligations are imposed on owners. All amounts received by an owner after substantial performance of the contract is certified are impressed with a trust. Also, property received by an owner for the sale of a premises is impressed with a trust where the owner does not pay for the improvements (ss. 7, 9).
3. Anyone who assents to, or acquiesces in, conduct that he knows or reasonably ought to know amounts to a breach of trust by a corporation, is liable for the breach of trust (s. 13).
4. The confusion regarding whether there is a lien for interest is resolved. No lien for interest is allowed but persons may recover for interest on a personal judgment against the person who failed to pay his debts on time (s. 14).
5. A municipality that has a road dedicated to it and the road has been built at the municipality's request but not at its expense, will be liable to the extent of the holdback that should have been retained, to those who supply services and materials in relation to the road if there is default by the proper payer. Municipalities will be able to protect themselves by demanding a bond or other form of security from the proper payer (s. 17).
6. The interest of a joint or co-owner of premises who knows or reasonably ought to know of the making of an improvement is subject to the

lien for the improvement unless the contractor is given actual notice that the joint or co-owner assumes no responsibility (s. 18).

7. The amount of the holdback required to be retained by the payer on a contract or a subcontract is reduced from 15 per cent to 10 per cent of the price of services or materials as they are supplied (s. 22).
8. The Bill provides for two holdbacks. The first, or basic holdback, relates to the period prior to the time the contract is certified as substantially performed. The second, or holdback for finishing work, relates to the period between the time a contract is substantially performed and the time it is totally completed. This provision will permit early release of the basic holdback (s. 22).
9. Provisions for the expiry of lien rights are made consistent throughout the Bill and the expiry of lien rights provisions govern the right to release holdbacks.
10. The existing thirty-seven-day period following the supply of services or materials for claiming liens is increased to forty-five days (s. 31).
11. To permit release of holdbacks related to the period between the commencement of a contract for an improvement and the substantial performance of the contract, all lien rights for services and materials supplied during that period expire forty-five days after publication of the certificate of substantial performance of the contract in a construction trade newspaper. Publication provides certainty of time for release and certainty that any person can receive notice (s. 31).
12. Lien rights related to the basic holdback expire without limiting the right to claim a lien for the supply of services and materials related to the period between substantial performance of the contract and its completion (s. 31).
13. A set of rules is provided regarding the certification of substantial performance of a contract (s. 32).
14. Provision is made for the voluntary certification of the completion of a subcontract and provision made for the release of holdbacks related to a certified complete subcontract (s. 33).
15. The provisions for preserving, that is, temporarily continuing, a lien related to private property, municipal streets, railway rights-of-way, and Crown property are made clearer (s. 34).
16. A lien may be claimed under the Bill, only for the supply of services and materials to the time of the claim and, not, as at present, for work that is to be done. This provision is intended to reduce cases where exaggerated lien claims are made (s. 34).
17. A person who preserves a claim for lien in a grossly exaggerated amount, or where he knows that he does not have a lien, will be liable to any person who suffers damage as a result. Frivolous or vexatious claims will be discouraged (s. 35).
18. The concept of perfecting a lien by sheltering under the action of another claimant is codified (s. 36).
19. The right to information provision is designed to provide only that information that is relevant to a lien action without interfering with other business practices. A new right is provided to a workers' trust to

examine payroll accounts of an employer. The remedies for failure to provide information or access to information are made more effective (s. 39).

20. A right to cross-examine once on an affidavit verifying a lien claim is given to persons having an interest in the premises subject to the claim and to the contractor. This provision is designed to discourage claims for excessive amounts (s. 40).
21. Provision is made for the postponement of a lien claim to the interest of another. This will assist in continuing the flow of funds on a construction project (s. 43).
22. The provisions related to vacating the registration of a claim to lien have been clarified and are designed to avoid unnecessary delays in the flow of funds on a construction project (s. 44).
23. Defendants who do not file a statement of defence may have pleadings noted closed against them and, in that case, will be deemed to have admitted allegations of fact in the claim, be denied the opportunity to participate in the trial or other proceedings in respect of the claim and may have judgment given against them. The intent of this provision is to speed the resolution of lien actions (s. 56).
24. With consent of the court, a person may be added as a third party for the purpose of claiming contribution and indemnity. In appropriate circumstances this will avoid multiplicity of judicial proceedings (s. 58).
25. The Bill contains a provision for settlement meetings and provides for their binding effect (s. 63).
26. Although trust actions may not be joined with a lien action under the Bill, a person who may be in possession of trust funds is entitled to apply to the court for directions (s. 68).
27. The provisions regarding the appointment by the court of a trustee are expanded and clarified (s. 70).
28. The Bill provides a right to claim against a labour and materials payment bond to the beneficiaries of the bond (s. 71).
29. The holdbacks are secured by giving lien claimants priority to the extent of any deficiency in the holdback over building mortgages and mortgages registered subsequent to the commencement of the improvement (s. 80).
30. Section 52 of the *Mechanics' Lien Act*, which provides for liens for the repairers of personal property, is retained and the balance of the Act is repealed (s. 91).

BILL 216

1983

An Act to revise the Mechanics' Lien Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

1. "action" means an action under Part VIII;
2. "construction trade newspaper" means a newspaper having circulation generally throughout Ontario, that is published no less frequently than on all days except Saturdays and holidays, and in which calls for tender on construction contracts are customarily published, and that is primarily devoted to the publication of matters of concern to the construction industry;
3. "contract" means the contract between the owner and the contractor, and includes any amendment to that contract;
4. "contractor" means a person contracting with or employed directly by the owner or his agent to supply services or materials to an improvement;
5. "court" means the Supreme Court of Ontario;
6. "Crown" includes a Crown agency to which the *Crown Agency Act* applies; R.S.O. 1980,
c. 106
7. "holdback" means the 10 per cent of the value of the services or materials supplied under a contract or sub-contract required to be withheld from payment by Part IV;
8. "improvement" means,
 - i. any alteration, addition or repair to, or

- ii. any construction, erection or installation on,
any land, and includes the demolition or removal of any building, structure or works or part thereof, and "improved" has a corresponding meaning;
- 9. "interest in the premises" means an estate or interest of any nature, and includes a statutory right given or reserved to the Crown to enter any lands or premises belonging to any person or public authority for the purpose of doing any work, construction, repair or maintenance in, upon, through, over or under any lands or premises;
- 10. "land" includes any building, structure or works affixed to the land, or an appurtenance to any of them, but does not include the improvement;
- 11. "lien claimant" means a person having a preserved or perfected lien;
- 12. "materials" means every kind of movable property,
 - i. that becomes, or is intended to become, part of the improvement, or that is used directly in the making of the improvement, or that is used to facilitate directly the making of the improvement,
 - ii. that is equipment rented without an operator for use in the making of the improvement;
- 13. "mortgage" includes a charge and "mortgagee" includes a chargee;
- 14. "municipality" means a municipality as defined in the *Municipal Affairs Act* or a metropolitan, regional or district municipality, or a local board thereof;
- 15. "owner" means any person, including the Crown, having an interest in a premises at whose request and,
 - i. upon whose credit, or
 - ii. on whose behalf, or
 - iii. with whose privity or consent, or
 - iv. for whose direct benefit,
 an improvement is made to the premises;

16. "payer" means the owner, contractor or subcontractor who is liable to pay for the materials or services supplied to an improvement under a contract or subcontract;
17. "payment certifier" means an architect, engineer or any other person upon whose certificate payments are made under a contract or subcontract;
18. "person having a lien" includes both a lien claimant and a person with an unpreserved lien;
19. "premises" includes,
 - i. the improvement,
 - ii. all materials supplied to the improvement, and
 - iii. the land occupied by the improvement, or enjoyed therewith, or the land upon or in respect of which the improvement was done or made;
20. "price" means the contract or subcontract price,
 - i. agreed upon between the parties, or
 - ii. where no specific price has been agreed upon between them, the actual value of the services or materials that have been supplied to the improvement under the contract or subcontract;
21. "services or materials" includes both services and materials;
22. "subcontract" means any agreement between the contractor and a subcontractor, or between two or more subcontractors, relating to the supply of services or materials to the improvement and includes any amendment to that agreement;
23. "subcontractor" means a person not contracting with or employed directly by the owner or his agent but who supplies services or materials to the improvement under an agreement with the contractor or under him with another subcontractor;
24. "suffers damages as a result" means suffers damages that could be reasonably foreseen to result;

25. "supply of services" means any work done or service performed upon or in respect of an improvement, and includes,

- i. the rental of equipment with an operator, and
- ii. where the making of the planned improvement is not commenced, the supply of a design, plan, drawing or specification that in itself enhances the value of the owner's interest in the land,

and a corresponding expression has a corresponding meaning;

26. "wages" means the money earned by a worker for work done by time or as piece work, and includes all monetary supplementary benefits, whether provided for by statute, contract or collective bargaining agreement;

27. "worker" means a person employed for wages in any kind of labour;

28. "workers' trust fund" means any trust fund maintained in whole or in part on behalf of any worker on an improvement and into which any monetary supplementary benefit is payable as wages for work done by the worker in respect of the improvement;

29. "written notice of a lien" includes a claim for lien and any written notice given by a lien claimant that,

- i. identifies his payer and identifies the premises, and
- ii. states the amount that he has not been paid and is owed to him by his payer.

When
materials
supplied

(2) For the purposes of this Act, materials are supplied to an improvement when they are,

- (a) placed on the land on which the improvement is being made;
- (b) placed upon land designated by the owner or his agent that is in the immediate vicinity of the premises, but placing materials on the land so designated does not, of itself, make that land subject to a lien; or
- (c) in any event, incorporated into or used in making or facilitating directly the making of the improvement.

(3) A contractor or subcontractor to whom materials are supplied and who designates land under clause (2) (b) is deemed to be the owner's agent for that purpose, unless the person supplying the materials has actual notice to the contrary.

2.—(1) For the purposes of this Act, a contract is substantially performed, When contract substantially performed

(a) when the improvement to be made under that contract or a substantial part thereof is ready for use or is being used for the purposes intended; and

(b) when the improvement to be made under that contract is capable of completion or, where there is a known defect, correction, at a cost of not more than,

(i) 3 per cent of the first \$500,000 of the contract price,

(ii) 2 per cent of the next \$500,000 of the contract price, and

(iii) 1 per cent of the balance of the contract price.

(2) For the purposes of this Act, where the improvement or a substantial part thereof is ready for use or is being used for the purposes intended and the remainder of the improvement cannot be completed expeditiously for reasons beyond the control of the contractor or, where the owner and the contractor agree not to complete the improvement expeditiously, the price of the services or materials remaining to be supplied and required to complete the improvement shall be deducted from the contract price in determining substantial performance.

(3) For the purposes of this Act, a contract shall be deemed to be completed and services or materials shall be deemed to be last supplied to the improvement when the price of completion, correction of a known defect or last supply is not more than the lesser of, When contract deemed completed

(a) 1 per cent of the purchase price; and

(b) \$1,000.

PART I

GENERAL

3.—(1) Subject to section 16 (where lien does not attach to the premises), this Act binds the Crown but does not apply in respect Act binds Crown

R.S.O. 1980, c. 290 of a contract as defined in the *Ministry of Transportation and Communications Creditors Payment Act*, and to which that Act applies.

Non-application of R.S.O. 1980, c. 393, s. 7. (2) Section 7 of the *Proceedings Against the Crown Act* does not apply in respect of an action against the Crown under this Act.

Architect does not have lien R.S.O. 1980, c. 26 (3) Despite subsection 14 (1) an architect or the holder of a certificate of practice under the *Architects Act* does not have a lien.

No waiver of rights 4. An agreement by any person who supplies services or materials to an improvement that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void.

Contracts to conform 5. Every contract or subcontract related to an improvement is deemed to be amended in so far as is necessary to be in conformity with this Act.

Minor irregularities 6. No certificate, declaration or claim for lien is invalidated by reason only of a failure to comply strictly with subsection 32 (2) or (5), subsection 33 (1) or subsection 34 (5), unless in the opinion of the court a person has been prejudiced thereby, and then only to the extent of the prejudice suffered.

PART II

TRUST PROVISIONS

Owner's trust, amounts received for financing a trust 7.—(1) All amounts received by an owner, other than the Crown or a municipality, that are to be used in the financing of the improvement, including any amount that is to be used in the payment of the purchase price of the land and the payment of prior encumbrances, constitute, subject to the payment of the purchase price of the land and prior encumbrances, a trust fund for the benefit of the contractor.

Amounts certified as payable (2) Where amounts become payable under a contract to a contractor by the owner on a certificate of a payment certifier, an amount that is equal to an amount so certified that is in the owner's hands or received by him at any time thereafter constitutes a trust fund for the benefit of the contractor.

Where substantial performance certified (3) Where the substantial performance of a contract has been certified, or has been declared by the court, an amount that

is equal to the unpaid price of the substantially performed portion of the contract that is in the owner's hands or is received by him at any time thereafter constitutes a trust fund for the benefit of the contractor.

(4) The owner is the trustee of the trust fund created by subsection (1), (2) or (3), and he shall not appropriate or convert any part of a fund to his own use or to any use inconsistent with the trust until the contractor is paid all amounts related to the improvement owed to him by the owner.

Obligations
as trustee

8.—(1) All amounts,

(a) owing to a contractor or subcontractor, whether or not due or payable; or

Contractor's
and sub-
contractor's
trust,
amounts
received
a trust

(b) received by a contractor or subcontractor,

on account of the contract or subcontract price of an improvement constitute a trust fund for the benefit of the subcontractors and other persons who have supplied services or materials to the improvement who are owed amounts by the contractor or subcontractor.

(2) The contractor or subcontractor is the trustee of the trust fund created by subsection (1) and he shall not appropriate or convert any part of the fund to his own use or to any use inconsistent with the trust until all subcontractors and other persons who supply services or materials to the improvement are paid all amounts related to the improvement owed to them by him.

Obligations
as trustee

9.—(1) Where the owner's interest in a premises is sold by the owner, an amount equal to,

Vendor's
trust,
amounts
received
a trust

(a) the value of the consideration received by the owner as a result of the sale,

less,

(b) the reasonable expenses arising from the sale and the amount, if any, paid by the vendor to discharge any existing mortgage indebtedness on the premises,

constitutes a trust fund for the benefit of the contractor.

(2) The former owner is the trustee of the trust created by subsection (1), and he shall not appropriate or convert any part of the trust property to his own use or to any use inconsistent with the trust until the contractor is paid all amounts owed to him related to the improvement.

Obligations
as trustee

Payment
discharging
trust

10. Subject to Part IV (holdbacks), every payment by a trustee to a person he is liable to pay for services or materials supplied to the improvement discharges the trust of the trustee making the payment and his obligations and liability as trustee to all beneficiaries of the trust to the extent of the payment made by him.

Where trust
funds may
be reduced

11.—(1) Subject to Part IV, a trustee who pays in whole or in part for the supply of services or materials to an improvement out of money that is not subject to a trust under this Part may retain from trust funds an amount equal to that paid by him without being in breach of the trust.

Application of
trust funds
to discharge
loan

(2) Subject to Part IV, where a trustee pays in whole or in part for the supply of services or materials to an improvement out of money that is loaned to him, trust funds may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and the application of trust money does not constitute a breach of the trust.

Set-off
by trustee

12. Subject to Part IV, a trustee may, without being in breach of trust, retain from trust funds an amount that, as between himself and the person he is liable to pay under a contract or subcontract related to the improvement, is equal to the balance in the trustee's favour of all outstanding debts, claims or damages, whether or not related to the improvement.

Liability for
breach of
trust by
corporation

13.—(1) In addition to the persons who are otherwise liable in an action for breach of trust under this Part,

(a) every director or officer of a corporation; and

(b) any person, including an employee or agent of the corporation, who has effective control of a corporation or its relevant activities,

who assents to, or acquiesces in, conduct that he knows or reasonably ought to know amounts to breach of trust by the corporation is liable for the breach of trust.

Effective
control of
corporation

(2) The question of whether a person has effective control of a corporation or its relevant activities is one of fact and in determining this the court may disregard the form of any transaction and the separate corporate existence of any participant.

Joint and
several
liability

(3) Where more than one person is found liable or has admitted liability for a particular breach of trust under this Part, those persons are jointly and severally liable.

(4) A person who is found liable, or who has admitted liability, for a particular breach of a trust under this Part is entitled to recover contribution from any other person also liable for the breach in such amount as will result in equal contribution by all parties liable for the breach unless the court considers such apportionment would not be fair and, in that case, the court may direct such contribution or indemnity as the court considers appropriate in the circumstances. Contribution

PART III

THE LIEN

14.—(1) A person who supplies services or materials to an improvement for an owner, contractor or subcontractor, has a lien upon the interest of the owner in the premises improved for the price of those services or materials. Creation of lien

(2) No person is entitled to a lien for any interest on the amount owed to him in respect of the services or materials that have been supplied by him, but nothing in this subsection affects any right that he may otherwise have to recover that interest. No lien for interest

15. A person's lien arises and takes effect when he first supplies his services or materials to the improvement. Where lien arises

16.—(1) A lien does not attach to the interest of the Crown in a premises. Interest of Crown

(2) Where an improvement is made to a premises in which the Crown has an interest, but the Crown is not an owner within the meaning of this Act, the lien may attach to the interest of any other person in that premises. Interest of person other than Crown

(3) Where the Crown is the owner of a premises within the meaning of this Act, or where the premises is, Where lien does not attach to premises

(a) a public street or highway owned by a municipality; or

(b) a railway right-of-way,

the lien does not attach to the premises but constitutes a charge as provided in section 21, and the provisions of this Act shall have effect without requiring the registration of a claim for lien against the premises.

17.—(1) The lien of a person is limited to the amount owing to him in relation to the improvement and, subject to Part IV Limitation on value of lien

(holdbacks), it is further limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien.

Idem

(2) Subject to Part IV, the total value of the liens of all members of a class, as defined in section 81, is limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials made by the members of the class.

Set-off

(3) Subject to Part IV, in determining the amount of a lien under subsection (1) or (2), there may be taken into account the amount that is, as between a payer and the person he is liable to pay, equal to the balance in the payer's favour of all outstanding debts, claims or damages, whether or not related to the improvement.

Public
highway,
liability of
municipality
re

(4) Despite subsection (1), where land is dedicated to a municipality as a public street or highway and an improvement is made to the land at the written request of, or under an agreement with, the municipality, but not at its expense, the municipality shall nevertheless, on default of payment by the proper payer, be liable to the value of the holdbacks under Part IV that would have been required were the improvement made at the expense of the municipality, and the procedure for making a claim under this subsection shall be the same as for enforcing a claim for lien against a municipality in respect of a public street or highway.

Joint or
common
interests

18. Where the interest of the owner in the premises is held jointly or in common with another person who knew or ought reasonably to have known of the making of the improvement, the joint or common interest in the premises of that person is also subject to the lien unless the contractor receives actual notice, before the supply of services or materials to the improvement is commenced, that the person having the joint or common interest assumes no responsibility for the improvement to be made.

Where owner's
interest
leasehold

19.—(1) Where the interest of the owner to which the lien attaches is leasehold, the interest of the landlord shall also be subject to the lien to the same extent as the interest of the owner if the contractor gives the landlord written notice of the improvement to be made, unless the landlord, within fifteen days of receiving the notice from the contractor, gives the contractor written notice that the landlord assumes no responsibility for the improvement to be made.

(2) No forfeiture of a lease to, or termination of a lease by, a landlord, except for non-payment of rent, deprives any person having a lien against the leasehold of the benefit of his lien. Forfeiture or termination of lease, effect of

(3) Where a landlord intends to enforce forfeiture or terminate a lease of the premises because of non-payment of rent, and there is a claim for lien registered against the premises in the proper land registry office, the landlord shall give notice in writing of his intention to enforce forfeiture or terminate the lease and of the amount of the unpaid rent to each person who has registered a claim for lien against the premises. Notice to lien claimants

(4) A person receiving notice under subsection (3) may, within ten days thereafter, pay to the landlord the amount of the unpaid rent, and the amount so paid may be added by that person to his claim for lien. Payment of unpaid rent

20. Where an owner enters into a single contract for improvements on more than one premises owned by him, any person supplying services or materials under that contract, or under a subcontract under that contract, may choose to have his lien follow the form of the contract and be a general lien against each of those premises for the price of all services and materials he supplied to all the premises. General lien

21. The lien of a person is a charge upon the holdbacks required to be retained by Part IV, and subject to subsection 17 (3), any additional amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien. Lien a charge

PART IV

HOLDBACKS

22.—(1) Each payer upon a contract or subcontract under which a lien may arise shall retain a holdback equal to 10 per cent of the price of the services or materials as they are actually supplied under the contract or subcontract until all liens that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court). Basic holdback

(2) Where the contract has been certified or declared to be substantially performed but services or materials remain to be supplied to complete the contract, the payer upon the contract, or a subcontract, under which a lien may arise shall retain, from the date certified or declared to be the date of substantial perfor-

Separate holdback for finishing work

mance of the contract, a separate holdback equal to 10 per cent of the price of the remaining services or materials as they are actually supplied under the contract or subcontract, until all liens that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

When
obligation
to retain
applies

(3) The obligation to retain the holdbacks under subsections (1) and (2) applies irrespective of whether the contract or subcontract provides for partial payments or payment on completion.

Personal
liability
of owner

23.—(1) An owner is personally liable to those lien claimants who have valid liens against his interest in the premises to the extent of the holdbacks that he is required to retain under this Part.

How
determined

(2) The personal liability of an owner under subsection (1) may only be determined in an action under this Act.

Payments
that may
be made

24.—(1) A payer may, without jeopardy, make payments on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract unless, prior to making payment, the payer has received written notice of a lien.

Idem

(2) Where a payer has received written notice of a lien and has retained, in addition to the holdbacks required by this Part, an amount sufficient to satisfy the lien, the payer may, without jeopardy, make payment on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract, less the amount retained.

Payment
where
subcontract
certified
complete

25. Where a subcontract has been certified complete under section 33, each payer upon the contract and any subcontract may, without jeopardy, make payment reducing the holdbacks required by this Part to the extent of the amount of holdback he has retained in respect of the completed subcontract, where all liens in respect of the completed subcontract have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

Payment
of basic
holdback

26. Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (1) (basic holdback), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

27. Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (2) (holdback for finishing work), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Payment of
holdback for
finishing
work

28. Where an owner, contractor or subcontractor makes a payment without obligation to do so to any person having a lien for or on account of any amount owing to that person for services or materials supplied to the improvement and gives written notice of the payment or his intention to pay to the proper payer of that person, the payment shall be deemed to be a payment by the owner, contractor or subcontractor to the proper payer of that person, but no such payment reduces the amount of the holdback required to be retained under this Part or reduces the amount that must be retained in response to a written notice of lien given by a person other than the person to whom payment is made.

Direct
payment
to person
having lien

29. Payments made in accordance with this Part operate as a discharge of the lien to the extent of the amount paid.

Discharge,
extent of

30. Where the contractor or a subcontractor defaults in the performance of his contract or subcontract, a holdback shall not be applied by any payer toward obtaining services or materials in substitution for those that were to have been supplied by the person in default, nor in payment or satisfaction of any claim against the person in default, until all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

How holdback
not to be
applied

PART V

EXPIRY, PRESERVATION AND PERFECTION OF LIENS

31.—(1) Unless preserved under section 34, the liens arising from the supply of services or materials to an improvement expire as provided in this section.

Expiry
of liens

(2) Subject to subsection (4), the lien of a contractor,

Contractor's
liens

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published as provided in section 32, and

(ii) the date the contract is completed or abandoned; and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of substantial performance, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date the contract is completed, and

(ii) the date the contract is abandoned.

Liens of
other persons

(3) Subject to subsection (4), the lien of any other person,

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earliest of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published, as provided in section 32, and

(ii) the date on which he last supplies services or materials to the improvement, and

(iii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract; and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

- (i) the date on which he last supplies services or materials to the improvement, and
- (ii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract.

(4) Where a person has supplied services or materials to an improvement on or before the day certified or declared to be the date of the substantial performance of the contract and has also supplied, or is to supply, services or materials after that date, his lien in respect of the services or materials supplied on or before the date of substantial performance expires without affecting any lien that he may have for the supply of services or materials after that date.

Separate
liens when
ongoing
supply

(5) Where a person who has supplied services or materials under a contract or subcontract makes a declaration in the prescribed form declaring,

Declaration
of last supply

- (a) the date on which he last supplied services or materials under that contract or subcontract; and
- (b) that he will not supply any further services or materials under that contract or subcontract,

then the facts so stated shall be deemed to be true against the person making the declaration.

32.—(1) The following rules govern the certification and declaration of the substantial performance of a contract:

Rules
governing
certification
or declaration
of substantial
performance

1. On the application of the contractor, the payment certifier, or if there is no payment certifier, the owner and the contractor jointly shall determine whether a contract has been substantially performed in accordance with section 2, and where he or they so determine, shall certify the substantial performance of the contract by signing a certificate in the prescribed form.
2. The payment certifier or the owner and the contractor jointly, as the case may be, shall set out in the certificate the date on which the contract was substantially performed.
3. The date set out in the certificate as the date on which the contract was substantially performed is deemed for the purpose of this Act to be the date on which that event occurred.

4. Where the payment certifier certifies the substantial performance of a contract he shall within seven days of the day the certificate is signed give a copy of the certificate to the owner and to the contractor.
5. The contractor shall publish a copy of the certificate once in a construction trade newspaper.
6. Where the contractor does not publish a copy of the certificate within seven days of receiving a copy of the certificate signed by the payment certifier or, where there is no payment certifier, signed by the owner, any person may publish a copy of the certificate.
7. Where there is a failure or refusal to certify substantial performance of the contract within a reasonable time, any person may apply to the court, and the court, upon being satisfied that the contract is substantially performed, and upon such terms as to costs or otherwise as it considers fit, may declare that the contract has been substantially performed, and the declaration has the same force and effect as a certificate of substantial performance of the contract.
8. Unless the court otherwise orders, the day the declaration is made shall be deemed to be the day the contract was substantially performed.
9. The person who applied to the court shall publish a copy of the declaration of substantial performance once in a construction trade newspaper.
10. For the purposes of this Part, a certificate or declaration of the substantial performance of a contract has no effect until a copy of the certificate or declaration is published.

Contents of
certificate

(2) Every certificate or declaration made or given under this section shall include,

- (a) the name and address for service of the owner and of the contractor;
- (b) the name and address of the payment certifier, where there is one;
- (c) a short description of the improvement;

- (d) the date on which the contract was substantially performed;
- (e) where the lien attaches to the premises, a concise description containing a reference to lot and plan or instrument registration number sufficient to identify the premises; and
- (f) the street address, if any, of the premises.

(3) Any person who is required by this section to make a determination of the substantial performance of a contract, and who after receiving an application fails or refuses within a reasonable time to certify the substantial performance of the contract even though there is no reasonable doubt that the contract has, in fact, been substantially performed is liable to anyone who suffers damages as a result.

Liability
for refusal
to certify

(4) A payment certifier who fails to comply with paragraph 4 of subsection 32 (1) is liable to anyone who suffers damage as a result.

Liability
for failure
to furnish
copy of
certificate

(5) A construction trade newspaper shall publish upon commercially reasonable terms copies of certificates or declarations of substantial performance in the prescribed form and manner.

Manner of
publication

33.—(1) Upon the request of the contractor, the payment certifier on the contract, or the owner and the contractor jointly, may determine whether a subcontract has been completed, and where he or they so determine, he or they may certify the completion of the subcontract in the prescribed form.

Certificate
re subcontract

(2) Where a subcontract is certified to be completed, the subcontract shall be deemed to have been completed on the date of certification.

Date
subcontract
deemed
completed

(3) If services or materials are supplied to the improvement under or in respect of a subcontract after the date the subcontract is certified to be completed, those services or materials shall be deemed to have been last supplied on the date of certification.

Services or
materials
supplied after
subcontract
certified
completed

(4) Within seven days of the date the subcontract is certified to be completed, the payment certifier or the owner and the contractor, as the case may be, shall give a copy of the certificate,

Copy of
certificate

- (a) to the subcontractor whose subcontract has been certified as complete; and
- (b) to the owner and the contractor, where certification is by the payment certifier.

How lien
preserved

34.—(1) A lien may be preserved during the supplying of services or materials or at any time before it expires,

- (a) where the lien attaches to premises by the registration in the proper land registry office of a claim for lien on the title of the premises in accordance with this Part; and
- (b) where the lien does not attach to premises, by giving to the owner a copy of the claim for lien together with the affidavit of verification required by subsection (6).

Public
highway

(2) Where a claim for lien is in respect of a public street or highway owned by a municipality, the copy of the claim for lien and affidavit shall be given to the clerk of the municipality.

Premises
owned by
Crown

(3) Where the owner of the premises is the Crown, the copy of the claim for lien and affidavit shall be given to the office prescribed by regulation, or where no office has been prescribed, to the ministry or Crown agency for whom the improvement is made.

Railway
right-of-way

(4) Where the premises is a railway right-of-way, the copy of the claim for lien and affidavit shall be given to the manager or any person apparently in charge of any office of the railway in Ontario.

Contents
of claim
for lien

(5) Every claim for lien shall set out,

- (a) the name and address for service of the person claiming the lien and the name and address of the owner of the premises and of the person for whom the services or materials were supplied and the time within which those services or materials were supplied;
- (b) a short description of the services or materials that were supplied;
- (c) the contract price or subcontract price;
- (d) the amount claimed in respect of services or materials that have been supplied; and
- (e) a description of the premises,
 - (i) where the lien attaches to the premises, sufficient for registration under the *Land Titles Act* or the *Registry Act*, as the case may be, or
 - (ii) where the lien does not attach to the premises, being the address or other identification of the location of the premises.

(6) A claim for lien shall be verified by an affidavit of the person claiming the lien, including a trustee of the workers' trust fund where subsection 83 (2) applies, or of an agent or assignee of the claimant who has informed himself of the facts set out in the claim, and the affidavit of the agent or assignee shall state that he believes those facts to be true. Affidavit of verification

(7) Subject to subsection 44 (4) (apportionment), a general lien shall be preserved against each of the premises that the person having the lien desires the lien to continue to apply against, and the claim against each premises may be for the price of services or materials that have been supplied to all the premises. Preservation of general lien

(8) Any number of persons having liens upon the same premises may unite in a claim for lien, but where more than one lien is included in one claim, each person's lien shall be verified by affidavit as required by subsection (6). Who may join in claim

35. In addition to any other ground on which he may be liable, any person who preserves a claim for lien or who gives written notice of a lien, Liability for exaggerated claim, etc.

(a) for an amount which he knows or ought to know is grossly in excess of the amount which he is owed; or

(b) where he knows or ought to know that he does not have a lien,

is liable to any person who suffers damage as a result.

36.—(1) A lien may not be perfected unless it is preserved. What liens may be perfected

(2) A lien that has been preserved expires unless it is perfected prior to the end of the forty-five-day period next following the last day, under section 31, on which the lien could have been preserved. Expiry of preserved lien

(3) A lien claimant perfects his preserved lien, How lien perfected

(a) where the lien attaches to the premises, when he commences an action to enforce his lien and, except where an order to vacate the registration of his lien is made, he registers a certificate of action in the prescribed form on the title of the premises; or

(b) where the lien does not attach to the premises, when he commences an action to enforce his lien.

(4) A preserved lien becomes perfected by sheltering under a lien perfected by another lien claimant in respect of the same improvement in accordance with the following rules: Rules re sheltering

1. The preserved lien of a lien claimant is perfected by sheltering under the perfected lien of another lien claimant in respect of the same premises where,
 - i. the lien of that other lien claimant was a subsisting perfected lien at the time when the lien of the lien claimant was preserved, or
 - ii. the lien of that other lien claimant is perfected in accordance with clause (3) (a) or (b) between the time when the lien of the lien claimant was preserved and the time that the lien of the lien claimant would have expired under subsection (2).
2. The validity of the perfection of a sheltered lien does not depend upon the validity, proper preservation or perfection of the lien under which it is sheltered.
3. A sheltered claim for lien is perfected only as to the defendants and the nature of the relief claimed in the statement of claim under which it is sheltered.
4. Upon notice given by a defendant named in a statement of claim, any lien claimant whose lien is sheltered under that statement of claim shall provide the defendant with further particulars of his claim or of any fact alleged in his claim for lien.

General
lien

(5) Subject to subsection 44 (4) (apportionment), a preserved general lien that attaches to the premises shall be perfected against each premises to which the person having the lien desires the lien to continue to apply.

Expiry of
perfected
lien

37.—(1) A perfected lien expires where,

- (a) no day is fixed under section 62 for the trial of an action in which that lien may be realized; or
- (b) an action in which that lien may be realized is not set down for trial,

within two years of the date of the commencement of the action which perfected that lien.

Application
under s. 46

(2) Where a lien has expired under subsection (1), an application may be made under section 46.

Saving other
rights

38. The expiration of a lien under this Act shall not affect any other legal or equitable right or remedy otherwise available to the person whose lien has expired.

PART VI

RIGHT TO INFORMATION

39.—(1) Any person having a lien or who is the beneficiary of a trust under Part II or who is a mortgagee may, at any time, by written request, require information to be provided within a reasonable time, not to exceed twenty-one days, as follows:

1. By the owner or contractor, with, Right to
information;

from owner
or contractor
 - i. the names of the parties to the contract,
 - ii. the contract price,
 - iii. the state of accounts between the owner and the contractor, and
 - iv. a copy of any labour and material payment bond in respect of the contract posted by the contractor with the owner.
2. By the contractor or a subcontractor, with, from
contractor
or
subcontractor
 - i. the names of the parties to a subcontract,
 - ii. the state of accounts between the contractor and a subcontractor or between a subcontractor and another subcontractor,
 - iii. a statement of whether there is a provision in a subcontract providing for certification of the subcontract,
 - iv. a statement of whether a subcontract has been certified as complete, and
 - v. a copy of any labour and material payment bond posted by a subcontractor with the contractor or by a subcontractor with another subcontractor.

(2) Any person having a lien or any beneficiary of a trust under Part II may, at any time, by written request, require a mortgagee or unpaid vendor to provide him within a reasonable time, not to exceed twenty-one days, with, from
mortgagee
or unpaid
vendor

- (a) sufficient details concerning any mortgage on the premises to enable the person who requests the infor-

mation to determine whether the mortgage was taken by the mortgagee for the purposes of financing the making of the improvement;

- (b) a statement showing the amount advanced under the mortgage, the dates of those advances, and any arrears in payment including any arrears in the payment of interest; or
- (c) a statement showing the amount secured under the agreement of purchase and sale and any arrears in payment including any arrears in the payment of interest.

by trustee
or workers'
trust fund

(3) The trustee of a workers' trust fund may at any time by written request require any contractor or subcontractor to permit him, within a reasonable time after making the request, not to exceed twenty-one days, to inspect the payroll records of all workers who are beneficiaries of the fund, and who have supplied labour to the making of the improvement, and who are employed by the contractor or the subcontractor.

respecting
publication
of certificate
of substantial
performance

(4) A contractor shall, upon written request whenever made to him by any person, within a reasonable time furnish in writing to the person the date of publication and the name of the construction trade newspaper in which a copy of a certificate of substantial performance has been published under subsection 32 (1).

Liability
for failure
to provide
information

(5) Where a person, who is required under subsection (1), (2), (3) or (4) to provide information or access to information, does not provide the information or access to information as required or knowingly or negligently mis-states that information, he is liable to the person who made the request for any damages sustained by reason thereof.

Order by
court to
comply with
request

(6) Upon motion, the court may at any time, whether or not an action has been commenced, order a person to comply with a request that has been made to him under this section and when making the order, the court may make any order as to costs as it considers appropriate in the circumstances, including an order for the payment of costs on a solicitor-and-client basis.

Cross-
examination
on claim
for lien

40.—(1) Any person who has verified a claim for lien that has been preserved is liable to be cross-examined without an order on the claim for lien at any time, irrespective of whether an action has been commenced.

Who may
participate

(2) There shall be only one examination under subsection (1), but the contractor and every person named in the claim for lien

who has an interest in the premises are entitled to participate therein.

(3) Any person intending to examine a person under subsection (1) shall give at least seven days notice of the examination specifying the time and place for the examination to, Notice

- (a) the person to be examined or his solicitor;
- (b) every other person named in the claim for lien as having an interest in the premises;
- (c) the contractor; and
- (d) the payer of the lien claimant.

(4) The Supreme Court Rules of Practice pertaining to examinations apply, with necessary modifications, to cross-examinations under this section. Application of rules of practice

PART VII

DISCHARGE OF PRESERVED OR PERFECTED LIENS

41.—(1) A preserved or perfected lien may be discharged, Discharge of lien claim by release

- (a) where the lien attaches to the premises, by the registration of a release in the prescribed form on the title to the premises and the release shall, except where the lien claimant is a corporation, be supported by an affidavit of execution; or
- (b) where the lien does not attach to the premises, by giving a release in the prescribed form to the owner, in the manner set out in section 34 for the giving of copies of the claim for lien.

(2) A written notice of a lien may be withdrawn by giving a withdrawal in writing to the person to whom the written notice of a lien was given, and a payer given the withdrawal shall, in respect of the operation of subsection 24 (2), be in the same position as if the written notice of a lien had never been given. Withdrawal of notice of lien

42. A preserved or perfected general lien may be discharged against any one or more of the premises that are subject to it, without affecting its application to any other premises to which it applies, by the registration of a release in the prescribed form on the title to the premises released. Discharge of general lien

Postponement
of lien claim

43. A preserved or perfected lien may be postponed in favour of the interest of another person in the premises by the registration on the title to the premises of a notice of postponement in the prescribed form, and in that case, subsection 80 (8) applies (priorities in event of postponement).

Vacating
lien by
payment
into court;
without notice

44.—(1) Upon the motion of any person, without notice to any other person, the court shall make an order vacating,

- (a) where the lien attaches to the premises, the registration of a claim for lien and any certificate of action in respect of that lien; or
- (b) where the lien does not attach to the premises, the claim for lien,

where the person bringing the motion pays into court, or posts security in an amount equal to, the total of,

- (c) the full amount claimed as owing in the claim for lien; and
- (d) the lesser of \$50,000 or 25 per cent of the amount described in clause (c), as security for costs.

on payment in
of reasonable
amount

(2) Upon the motion of any person, the court may make an order vacating the registration of a claim for lien, and any certificate of action in respect of that lien, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy that lien.

Where lien
does not
attach to
premises

(3) Where the lien does not attach to the premises, the court may make an order, upon the motion of any person, vacating a claim for lien given to the owner, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy the lien.

Where
general lien

(4) Where a motion is made to vacate the registration of a general lien against one or more of the premises subject to that lien, the court may apportion the general lien between the premises in respect of which the application is made and all other premises that are subject to the lien.

Reduction
of amount
paid into
court

(5) Where an amount has been paid into court or security has been posted with the court under this section, the court, upon notice to such persons as it may require, may order where it is appropriate to do so,

- (a) the reduction of the amount paid into court, and the payment of any part of the amount paid into court to the person entitled; or
- (b) the reduction of the amount of security posted with the court, and the delivery up of the security posted with the court for cancellation or substitution, as the case may be.

(6) Where an order is made under clause (1) (a) or subsection (2), the lien ceases to attach to the premises and ceases to attach to the holdbacks and other amounts subject to a charge under section 21, and becomes instead a charge upon the amount paid into court or security posted, and an owner or payer shall, in respect of the operation of sections 21, 23 and 24, be in the same position as if the lien had not been preserved or written notice of the lien had not been given.

Lien a charge upon amount paid into court

(7) Where an order is made under clause (1) (b) or subsection (3), the lien ceases to attach to the holdbacks and other amounts subject to a charge under section 21 and becomes instead a charge upon the amount paid into court or security posted and the owner or payer shall, in respect of the operation of sections 21, 23 and 24, be in the same position as if the lien had not been preserved or written notice of the lien had not been given.

Idem

(8) Where more than one motion is made under subsection (1), (2) or (3) for the payment into court or posting of security to obtain an order vacating the registration of one or more preserved or perfected liens arising from the same improvement, the court may consolidate the motions and require that the amount paid into court or security posted be adequate to satisfy all the liens that are the subject of each of the motions, or make any other order that it considers appropriate.

Consolidation of motions

(9) Where an order is made under subsection (1), (2) or (3), the following rules apply:

Rules

1. The lien claimant whose lien was the subject of the order may proceed with an action to enforce his claim against the amount paid into court or security posted in accordance with the procedures set out in Part VIII, but no certificate of action shall be registered against the premises.
2. The amount paid into court or security posted is subject to the claims of all persons having a lien to the same extent as if the amount paid into court or security posted was realized by the sale of the premises in an action to enforce the lien and shall be distributed among all lien claimants in accordance with the priorities provided for in section 82.

3. Where any amount is realized in a lien action by the sale of the premises or otherwise, it shall be pooled into a common fund with the amount paid into court or security posted under this section, and shall be distributed among all lien claimants in accordance with the priorities provided for in section 82.

Declaration
by court
that preserved
lien has
expired

45.—(1) Where a lien that attaches to the premises is not preserved or is not perfected within the time allowed for doing so under section 31 or 36, the court upon,

- (a) the motion of any person without notice to any other person;
- (b) proof that the lien has not been preserved or perfected within the time allowed; and
- (c) production of,

R.S.O. 1980,
c. 230

- (i) a certificate of search under the *Land Titles Act*,
or

R.S.O. 1980,
c. 445

- (ii) a registrar's abstract under the *Registry Act*,

together with a certified copy of the claim for lien,

shall declare that the lien has expired and order that the registration of the claim for lien be vacated.

Idem

(2) Where the court is satisfied that a lien that does not attach to the premises has not been preserved or perfected within the time allowed for doing so under section 31 or 36, the court upon the motion of any person without notice to any other person shall declare that the lien has expired.

Order
returning
amount paid
into court
or cancelling
security

(3) Where a declaration is made under subsection (1) or (2), the court shall order that,

- (a) any amount that has been paid into court under section 44 in respect of that lien be returned to the person who paid the amount into court; and
- (b) any security that has been posted under section 44 in respect of that lien be cancelled.

Order
dismissing
action,
etc.

46.—(1) Where a perfected lien that attaches to the premises has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to enforce that lien and vacating the

registration of a claim for lien and the certificate of action in respect of that action.

(2) Where a perfected lien that does not attach to the premises has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to realize upon that lien. Idem

(3) A motion under subsection (1) or (2) may be brought without notice, but no order as to costs in the action may be made upon the motion unless notice of that motion was given to the person against whom the order for costs is sought. Costs

(4) Where an action is dismissed under subsection (1) or (2), the court shall order that, Order
returning
money paid
into court
or cancelling
security

(a) any amount that has been paid into court under section 44 in respect of that action be returned to the person who paid the amount into court; and

(b) any security that has been posted under section 44 in respect of that action be cancelled.

47.—(1) Upon motion, the court may, General
power to
discharge lien

(a) order the discharge of a lien;

(b) order that the registration of,

(i) a claim for lien, or

(ii) a certificate of action,

or both, be vacated;

(c) declare, where written notice of a lien has been given, that the lien has expired, or that the written notice of the lien shall no longer bind the person to whom it was given; or

(d) dismiss an action,

upon any proper ground and subject to any terms and conditions that the court considers appropriate in the circumstances.

(2) Where a certificate of action is vacated under subsection (1), and there remain liens which may be enforced in the action to which that certificate relates, the court shall give any directions that are necessary in the circumstances in respect of the continuation of that action. Direction
by court

Discharge
irrevocable

48. A discharge of a lien under this Part is irrevocable and the discharged lien cannot be revived, but no discharge affects the right of the person whose lien was discharged to claim a lien in respect of services or materials supplied by him subsequent to the preservation of the discharged lien.

Registration

49. Where the lien attaches to the premises, an order declaring that a lien has expired, or discharging a lien, or vacating the registration of a claim for lien or a certificate of action, may be registered by registering on the title to the premises a certified copy of the order that includes a description of the premises sufficient for registration under the *Registry Act* or the *Land Titles Act*, as the case may be, and a reference to the registration number of every preserved or perfected claim for lien and certificate of action thereby affected.

R.S.O. 1980,
cc. 445, 230

PART VIII

JURISDICTION AND PROCEDURE

Lien claim
enforceable
in action

50.—(1) A lien claim is enforceable in an action in the Supreme Court in accordance with the procedure set out in this Part.

Trust claim
and lien claim
not to be
joined

(2) A trust claim shall not be joined with a lien claim but may be brought in any court of competent jurisdiction.

Joinder in
action

(3) Any number of lien claimants whose liens are in respect of the same owner and the same premises may join in the same action.

Where
premises
situate in
Judicial
District
of York

51.—(1) Where the premises or a part thereof are situate in the Judicial District of York, an action shall be tried by a judge of the court.

Where
premises
situate outside
Judicial
District
of York

(2) Where the premises are situate outside the Judicial District of York, an action shall be tried,

- (a) by a local judge of the court having jurisdiction in the county or district in which the premises or a part thereof are situate;
- (b) on consent of the persons to whom a notice of trial must be given and on the order of the local judge otherwise having jurisdiction over the action, by a local judge of the court in a county or district other than the one in which the premises or a part thereof are situate, but not in the Judicial District of York; or

- (c) where upon motion the local judge so orders, by a judge of the court at the regular sittings of the court for the trial of actions in the county or district in which the premises or a part thereof are situate.

(3) Where the premises or a part thereof are situate in more than one county or district, an action may be tried by any judge or local judge who has jurisdiction under subsection (1) or (2) in any of the counties or districts in which the premises are situate.

Where premises situate in more than one county

52.—(1) Except as provided in subsection (2),

Powers of master, etc.

- (a) a master, where the premises or a part thereof are situate in the Judicial District of York;
- (b) a local master appointed for, or a master assigned to, the county or district in which the premises or a part thereof are situate, where the premises are situate outside the Judicial District of York;
- (c) a local judge, where the local judge has ordered that the action be tried by a judge of the court under clause 51 (2) (b),

has jurisdiction to hear and dispose of any motion under this Act, including a motion brought prior to the commencement of an action, and all motions relating to the conduct of an action or reference under this Act.

(2) A master or appointed local master shall not hear or dispose of,

What matters not to be dealt with by master

- (a) a motion for the trial of the action by a judge under clause 51 (2) (b);
- (b) a motion for the reference of an action to a master or appointed local master for trial;
- (c) an originating application; or
- (d) a motion in respect of an appeal.

(3) In addition to his jurisdiction under subsection (1), a master or appointed local master to whom a reference has been directed has all the jurisdiction, powers and authority of the

Further powers of master

court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court.

Court to
dispose
completely
of action

53. The court, whether the action is being tried by a judge or local judge, or by a master or an appointed local master on a reference,

- (a) shall try the action, including any set-off, crossclaim, counterclaim, and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and
- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

Where
exclusive
jurisdiction
not acquired

54. A judge, local judge, master or an appointed local master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of his appointing the time and place for the trial of action or reference, or for the holding of a settlement meeting.

How action
commenced

55.—(1) An action shall be commenced by filing a statement of claim in the office of the registrar or local registrar of the court in the county or district in which the premises or a part thereof are situate.

Service of
statement
of claim

(2) The statement of claim shall be served within ninety days after it is filed, but the court may, upon a motion made before or after the expiration of that period of time, extend the time for service.

Crossclaim
or
counterclaim

(3) A crossclaim or counterclaim by any person shall accompany his statement of defence, but on motion the court may grant leave to deliver a crossclaim or counterclaim after this time where it is appropriate to do so, and where leave is granted, the court may,

- (a) make any order as to costs that it considers appropriate; and

(b) give directions as to the conduct of the action.

56.—(1) The time for delivering a statement of defence to a lien claim, crossclaim, counterclaim or third party claim shall be twenty days. Time for delivery of pleadings

(2) Where a person against whom a claim is made in a statement of claim, counterclaim, crossclaim or third party claim defaults in the delivery of a statement of defence in respect of that claim, pleadings may be noted closed against him in respect of that claim. Noting pleadings closed

(3) Where pleadings have been noted closed against a defendant or third party under subsection (2), he shall not be permitted to contest the claim of the person who named him as a defendant or third party, or to file a statement of defence, except with leave of the court, to be given only where the court is satisfied that there is evidence to support a defence, and where leave is granted, the court, Effect of default in defence

(a) may make any order as to costs that it considers appropriate; and

(b) may give directions as to the conduct of the action.

(4) Except where leave has been granted under subsection (3), a defendant or third party against whom pleadings have been noted closed under subsection (2) shall be deemed to admit all allegations of fact made in the statement of claim, counterclaim, crossclaim or third party claim, as the case may be, and shall not be entitled to notice of or to participate in the trial of the action or any proceeding in respect of the action and judgment may be given against him. Allegations of fact deemed admitted

(5) Every statement of claim, crossclaim, counterclaim or third party claim shall include the following warning: Warning to be included

“WARNING: If you wish to defend against this claim, you are required to deliver a statement of defence within twenty days. Should you fail to deliver a statement of defence as required, pleadings may be noted closed against you, and you shall be deemed to admit all allegations of fact contained in this claim, and you shall not be entitled to notice of or to participate in the trial or any proceeding in respect of this claim and judgment may be given against you.”

57.—(1) A plaintiff in an action may join with his lien claim a claim for breach of his contract or subcontract. Joinder of claims

(2) A defendant in an action may, Counter-claims and crossclaims

- (a) counterclaim against the person who named him as a defendant in respect of any claim that he may be entitled to make against that person, whether or not that claim is related to the making of the improvement;
- (b) crossclaim against a co-defendant in respect of any claim that he may be entitled to make against that person related to the making of the improvement.

Rules re
third party
proceedings

58. The following rules govern third party proceedings:

1. Subject to paragraph 2, a person against whom a claim is made in a statement of claim, crossclaim, counterclaim or third party claim may join a person who is not a party to the action as a third party for the purpose of claiming contribution or indemnity from the third party in respect of that claim.
2. A person may only be joined as a third party with leave of the court upon a motion made with notice to the owner and all persons having subsisting preserved or perfected liens at the time of the motion, but such leave shall not be given unless the court is satisfied that the trial of the third party claim will not,
 - i. unduly prejudice the ability of the third party or of any lien claimant or defendant to prosecute his claim or conduct his defence, or
 - ii. unduly delay or complicate the resolution of the lien action.
3. The court may give such directions as it considers appropriate in the circumstances in respect of the conduct of third party proceedings.

Parties

59.—(1) The person serving the notice of trial and all persons served with notice of trial are parties to the action.

Adding
parties

(2) Subject to section 56, the court may at any time add or join any person as a party to the action.

Reference
to master,
etc.

60.—(1) On motion made after the delivery of all statements of defence, or the statements of defence to all crossclaims, counterclaims, or third party claims, if any, or the time for their delivery has expired,

- (a) a judge may refer to a master; or

- (b) a local judge may refer to a master assigned to, or a local master appointed for, the county or district in which the trial is to take place,

the whole action for trial under section 71 of the *Judicature Act*. R.S.O. 1980, c. 223

- (2) At the trial, Idem

- (a) a judge may direct a reference to a master; or

- (b) a local judge may direct a reference to a master assigned to, or a local master appointed for, the county or district in which the trial is to take place,

under section 70 or 71 of the *Judicature Act*.

- (3) Where under subsection (1), the action has been referred to the master or local master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge or the local judge of the court who directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

- (4) Where no motion is made under subsection (3), or where the motion is refused, the person who subsequently became a party to the action is bound by the judgment directing the reference as if he had been a party to the action at the time the reference was directed. Effect on subsequent party to action

61.—(1) The court may at any time make an order awarding carriage of the action to any person who has a perfected lien. Carriage of action

- (2) Where more than one action is brought to enforce liens in respect of the same improvement, the court may, Consolidation of actions

- (a) consolidate all the actions into one action; and

- (b) award carriage of the action to any person who has a perfected lien.

62.—(1) Any party may make a motion to the court without notice to any other person at any time after, Application to fix date for trial or settlement meeting

- (a) the delivery of the statements of defence, or the statements of defence to all cross-claims, counterclaims or third party claims, if any, where the plaintiff's claim is disputed; or

- (b) the expiry of the time for the delivery of these statements of defence in all other cases,

to have a day, time and place fixed for the trial of the action, or for the holding of a settlement meeting under section 63, or both.

Notice of
settlement
meeting

(2) Where the court orders the holding of a settlement meeting, then at least ten days before the date appointed for the holding of the meeting, the party who obtained the appointment shall serve a notice of settlement meeting upon any person who was, on the twelfth day before the date appointed,

- (a) subject to section 56 (default in filing defence), the owner and every other person named as a defendant in every statement of claim in respect of the action;
- (b) where the lien attaches to the premises, a person with a registered interest in the premises;
- (c) where the lien attaches to the premises, an execution creditor of the owner;
- (d) any other person having a preserved or perfected lien against the premises; and
- (e) a person joined as a third party under section 58.

Request to
identify other
persons having
lien

(3) Where the lien does not attach to the premises, the party who obtained the appointment for the holding of the settlement meeting shall request the owner to inform him of the identity of every person described in clause (2) (d).

Service
of notice
of trial

(4) Subject to section 56, where the court fixes a date for trial, the party who obtained the appointment shall serve a notice of trial, at least ten days before the date appointed for trial, upon any person who is or would be entitled to a notice of a settlement meeting under subsection (2).

Conduct of
settlement
meeting

63.—(1) Where a settlement meeting is ordered by the court, it shall be conducted in accordance with this section.

Idem

(2) The settlement meeting shall be conducted by,

- (a) a person selected by a majority of the persons present at the meeting; or
- (b) where no person is selected, by the person who took out the appointment,

and shall be for the purpose of resolving or narrowing any issues to be tried in the action.

(3) The results of the settlement meeting shall be embodied in a statement of settlement which shall summarize those issues of fact and law which have been settled by the parties. Idem

(4) The statement of settlement shall be filed with the court and shall be attached to and form part of the record, and the settlement shall be binding upon all persons served with notice of the settlement meeting, and upon all defendants against whom pleadings have been noted closed under section 56, but subject to subsection 56 (3), the court may vary or set aside the statement of settlement upon such order as to costs or otherwise as it considers appropriate. Statement of settlement

(5) Upon the filing of the statement of settlement with the court, the court may, Power of court

- (a) if there was no dispute at the meeting to a claim for lien, declare the lien valid and give such further judgment as it considers appropriate;
- (b) enter a judgment or make a report upon consent on those issues which have been settled by the parties;
- (c) make any order that is necessary in order to give effect to any judgment or report of the court under clause (a) or (b); and
- (d) make any order that is necessary for, or will expedite the conduct of, the trial.

(6) Rule 244 of the Supreme Court Rules of Practice does not apply to an action under this Act. Non-application of rule 244

64.—(1) The results of the trial shall be embodied, Judgment or report

- (a) in a judgment in the prescribed form, where the trial is conducted by a judge or local judge of the court; or
- (b) in a report in the prescribed form, where the trial is conducted by a master or an appointed local master of the court on a reference.

(2) The prescribed form of judgment or report may be varied by the court in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he is entitled. Varying form

(3) The report of a master or an appointed local master shall be deemed to be confirmed at the expiration of the fifteen-day When report deemed confirmed

period next following the date that the notice of filing was given, unless notice of appeal is served within that time.

Issue of
execution

(4) The judgment or report may direct any party found liable to make a payment, to make such payment forthwith, and execution may be issued,

(a) immediately, in the case of a judgment; or

(b) after confirmation, in the case of a report.

Order for
sale

(5) The court may order that the interest in the premises be sold and may direct the sale to take place at any time after the judgment or confirmation of the report, allowing a reasonable time for advertising the sale.

Persons who
may be let in

(6) The court may allow any person with a perfected lien,

(a) who was not served with a notice of trial; or

(b) whose action was stayed by reason of an order under the *Arbitrations Act*,

R.S.O. 1980,
c. 25

to be let in to prove his claim at any time before the amount realized in the action for the satisfaction of the lien has been distributed, and where his claim is allowed, the judgment or report shall be amended to include his claim.

Personal
judgment

65. Subject to paragraph 3 of subsection 36 (4) (sheltering), the court may award any lien claimant a personal judgment, whether he proves his lien or not, upon any ground relating to his claim that is disclosed by the evidence against any party to the action for any amount that may be due to him and that he might have recovered in a proceeding against that party.

Right to
share in
proceeds

66. Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, a person with a perfected lien is entitled to share in the proceeds of sale in respect of the amount owing to him, although that amount or part thereof was not payable at the time of the commencement of the action or at the time of the distribution of the proceeds.

Orders for
completion
of sale

67.—(1) The court may make all orders necessary for the completion of a sale and for vesting an interest in premises in the purchaser.

Payment into
court of
proceeds

(2) Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, the proceeds of the sale shall be paid into court to the credit of the action.

(3) The court may add to the claim of the party having charge of the action his fees and actual disbursements in connection with the sale. Fees and disbursements

(4) The court shall direct to whom the proceeds shall be paid in accordance with the priorities established by this Act. To whom proceeds paid

(5) Where the proceeds of the sale are not sufficient to satisfy the judgment and costs, the court shall certify the amount of the deficiency and give personal judgment in the appropriate amount to each person whose judgment is not satisfied out of the proceeds against each person who has been found liable to him. Where proceeds insufficient to satisfy judgment

68. Where a person has in his possession an amount that may be subject to a trust under Part II, he may apply to the court for direction and the court may give any direction or make any order that the court considers appropriate in the circumstances. Application to court for directions

69.—(1) The procedure in an action shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question. Summary procedure

(2) Interlocutory proceedings, other than those provided for in this Act, shall not be taken without the consent of the court obtained upon proof that the proceedings are necessary or would expedite the resolution of the issues in dispute. Interlocutory proceedings

(3) Except where inconsistent with this Act, and subject to subsection (2), the *Judicature Act* and the Supreme Court Rules of Practice apply to pleadings and proceedings under this Act. Application of rules of practice
R.S.O. 1980, c. 223

(4) The court may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or other person in such a way as it considers fit, to enable it to determine better any matter of fact in question, and may fix the remuneration of such person and direct the payment thereof by any of the parties. Technical assistance

(5) A lien claimant whose claim is for an amount within the monetary jurisdiction of a small claims court may be represented by an agent who is not a barrister and solicitor. Representation by agent

(6) Where in this Act the court is empowered to do anything upon motion, the motion may be made in the manner provided for in the Supreme Court Rules of Practice for the making of interlocutory motions, regardless of whether any action has been commenced at the time the motion is made. Manner of making motion

PART IX

EXTRAORDINARY REMEDIES

Application
for appoint-
ment
of trustee

70.—(1) Any person having a lien, or any other person having an interest in the premises, may apply to the court for the appointment of a trustee and the court may appoint a trustee upon such terms as to the giving of security or otherwise as the court considers appropriate.

Powers of
trustee

(2) Subject to the supervision and direction of the court, a trustee appointed under subsection (1) may,

R.S.O. 1980,
c. 379

(a) act as a receiver and manager and, subject to the *Planning Act* and the approval of the court, mortgage, sell or lease the premises or any part thereof;

(b) complete or partially complete the improvement;

(c) take appropriate steps for the preservation of the premises; and

(d) subject to the approval of the court, take such other steps as are appropriate in the circumstances.

Liens a
charge on
amounts
recovered

(3) Subject to subsection 80 (7), all liens shall be a charge upon any amount recovered by the trustee after payment of the reasonable business expenses and management costs incurred by the trustee in the exercise of any power under subsection (2).

Sale
subject to
encumbrances

(4) Any interest in the premises that is to be sold may be offered for sale subject to any mortgage, charge, interest or other encumbrance that the court directs.

Orders for
completion
of sale, etc.

(5) The court may make all orders necessary for the completion of any mortgage, lease or sale by a trustee under this section.

Labour and
material
payment
bonds

71.—(1) Where a labour and material payment bond is in effect in respect of an improvement, any person whose payment is guaranteed by that bond has a right of action to recover the amount of his claim, in accordance with the terms and conditions of the bond, against the surety on the bond, where the principal on the bond defaults in making the payment guaranteed by the bond.

Saving

(2) Nothing in this section makes the surety liable for an amount in excess of the amount that he undertakes to pay under the bond and the surety's liability under the bond shall be

reduced by and to the extent of any payment made in good faith by the surety either before or after judgment is obtained against the surety.

(3) The surety, upon satisfaction of its obligation to any person whose payment is guaranteed by the bond, shall be subrogated to all the rights of that person. Subrogation

PART X

APPEALS

72.—(1) Where in the course of an action a question of law arises, the court may state the question in the form of a stated case for the opinion of the Divisional Court, and the stated case shall thereupon be set down to be heard before the Divisional Court and notice of hearing shall be served by the party setting down the matter upon all parties concerned. Stated case

(2) The stated case shall set forth those facts material to the determination of the question raised. Facts to be set out

73.—(1) Subject to subsection (3), an appeal lies from a judgment or a report under this Act to the Divisional Court. Appeal to Divisional Court

(2) A party wishing to appeal a judgment or report shall file and serve his notice of appeal, Time for filing and serving notice of appeal

(a) prior to the confirmation of the report where the appeal is in respect of a report; or

(b) within fifteen days of the date of judgment in all other cases,

but the time for filing or serving the notice of appeal may be extended by the written consent of all parties, or by a single judge of the Divisional Court where an appropriate case is made out for doing so.

(3) No appeal lies from,

Where no appeal lies

(a) a judgment or a report under this Act, where the amount claimed is \$1,000 or less; or

(b) an interlocutory order made by the court.

PART XI

PRIORITIES

Enforcement
of lien
despite
default

74. A person who has supplied services or materials in respect of an improvement may enforce his lien despite the non-completion or abandonment of the contract or a subcontract by any other person.

Assignment
of lien
rights

75. The rights of a person having a lien may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative.

Continuation
of general
lien

76.—(1) Subject to section 84, where one or more premises that are subject to an unpreserved general lien are sold, the general lien continues for the full amount of the lien against those premises that are subject to the lien, that were not sold.

Idem

(2) Where a person having a preserved or perfected general lien releases the lien against one or more of the premises subject to the lien, the lien continues for the full amount of the lien against those premises that were not released.

Effect of
taking
security

77.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of, or the giving of time for the payment of, or the taking of proceedings for the recovery of, or the obtaining of a personal judgment for, the claim, does not in itself merge, waive, pay, satisfy, prejudice or destroy a lien.

Where note
or bill
negotiated

(2) Where any promissory note or bill of exchange has been negotiated, the person having the lien may still enforce the lien if he is the holder of the promissory note or bill of exchange at the time when he proves his claim.

Time not
extended

(3) Nothing in this section extends the time for or dispenses with the requirement for the preservation or perfection of a lien.

Lien claimant
deemed
purchaser
R.S.O. 1980,
cc. 445, 230

78. Where a claim for lien is preserved by registration, the lien claimant shall be deemed to be a purchaser to the extent of his lien within the provisions of the *Registry Act* and *Land Titles Act*, but except as otherwise provided in this Act, those Acts do not apply to any lien arising under this Act.

Priority of
liens over
executions,
etc.

79. The liens arising from an improvement have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders except those executed or recovered upon before the time when the first lien arose in respect of the improvement.

80.—(1) Except as provided in this section, the liens arising from an improvement have priority over all conveyances, mortgages or other agreements affecting the owner's interest in the premises. Priority over mortgages, etc.

(2) Where a mortgagee takes a mortgage with the intention to secure the financing of an improvement, the liens arising from the improvement have priority over that mortgage, and any mortgage taken out to repay that mortgage, to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV, irrespective of when that mortgage, or the mortgage taken out to repay it, is registered. Building mortgage

(3) Subject to subsection (2), and without limiting the effect of subsection (4), all conveyances, mortgages or other agreements affecting the owner's interest in the premises that were registered prior to the time when the first lien arose in respect of an improvement have priority over the liens arising from the improvement to the extent of the lesser of, Prior mortgages, prior advances

(a) the actual value of the premises at the time when the first lien arose; and

(b) the total of all amounts that prior to that time were,

(i) advanced in the case of a mortgage, and

(ii) advanced or secured in the case of a conveyance or other agreement.

(4) Subject to subsection (2), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that was registered prior to the time when the first lien arose in respect of an improvement, has priority, in addition to the priority to which it is entitled under subsection (3), over the liens arising from the improvement, to the extent of any advance made in respect of that conveyance, mortgage or other agreement after the time when the first lien arose, unless, Prior mortgages, subsequent advances

(a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or

(b) prior to the time when the advance was made, the person making the advance had received written notice of a lien.

(5) Where any mortgage is registered after the time when the first lien arose in respect of an improvement, the liens arising Special priority against subsequent advances

from the improvement have priority over the mortgage to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV.

General
priority
against
subsequent
mortgages

(6) Subject to subsections (2) and (5), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that is registered after the time when the first lien arose in respect to the improvement, has priority over the liens arising from the improvement to the extent of any advance made in respect of that conveyance, mortgage or other agreement, unless,

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or
- (b) prior to the time when the advance was made, the person making the advance receives written notice of a lien.

Advances
to trustee
under
Part IX

(7) Despite anything in this Act, where an amount is advanced to a trustee appointed under Part IX as a result of the exercise of any powers conferred upon him under that Part,

- (a) the interest in the premises acquired by the person making the advance takes priority, to the extent of the advance, over every lien existing at the date of the trustee's appointment; and
- (b) the amount received is not subject to any lien existing at the date of the trustee's appointment.

Where
postponement

(8) Despite subsections (4) and (6), where a preserved or perfected lien is postponed in favour of the interest of some other person in the premises, that person shall enjoy priority in accordance with the postponement over,

- (a) the postponed lien; and
- (b) where an advance is made, any unpreserved lien in respect of which no written notice has been received by the person in whose favour the postponement is made at the time of the advance,

but nothing in this subsection affects the priority of the liens under subsections (2) and (5).

Saving

(9) Subsections (2) and (5) do not apply in respect of a mortgage that was registered prior to the day on which this Act comes into force.

(10) A financial guarantee bond in a form prescribed may be registered on the title to the premises, and where the bond is registered a purchaser who takes title from the mortgagee takes title to the premises free of the priority of the liens created by subsections (2) and (5), the security of the bond takes the place of the priority created by those subsections and persons who have proved liens have a right of action against the surety on the bond.

Registration
of financial
guarantee
bond

81. All persons having a lien who have supplied services or materials to the same payer comprise a class, and a person who has supplied services or materials to more than one payer is a member of every class to the extent to which his lien relates to that class.

Persons who
comprise
class

82.—(1) Except where it is otherwise provided by this Act,
(a) no person having a lien is entitled to any priority over another member of the same class;

Priority
between
and within
class

(b) all amounts available to satisfy the liens in respect of an improvement shall be distributed rateably among the members of each class according to their respective rights; and

(c) the lien of every member of a class has priority over the lien of the payer of that class.

(2) Any conveyance or mortgage in respect of the premises to any person entitled to a lien on the premises, in payment of or as security for that claim, whether given before or after that lien arises, is void against all other persons entitled to a lien on the premises.

Where
conveyance
or mortgage
void

83.—(1) The lien of a worker has priority over the lien of any other person belonging to the same class to the extent of the amount of forty regular-time working days' wages.

Worker's
priority

(2) Where monetary supplementary benefits are payable to a workers' trust fund instead of to a worker, the trustee of the workers' trust fund is subrogated to the rights of the worker under this Act with respect to those benefits.

Workers'
trust fund

(3) Every device to defeat the priority given to workers by this section is void.

Device to
defeat
workers'
priority
void

84. Where a general lien is realized against a premises in an action in which other liens are also realized against the premises,

Sub-
ordination
of general
lien claims

(a) the general lien shall rank with the other liens according to the rules of priority set out in section 82 only to the extent of,

(i) the total value of the general lien,

divided by,

(ii) the total number of premises to which the person having the general lien supplied services or materials under his contract or subcontract; and

(b) in respect of the balance of the general lien, it shall rank next in priority to all other liens against the premises, whether or not of the same class.

Application
of insurance
proceeds

85. Where a premises that is subject to a lien is destroyed in whole or in part, any amount received by the owner or a mortgagee by reason of any insurance on the premises shall take the place of the premises so destroyed and shall be distributed in accordance with the priorities set out in this Part.

Distribution
of proceeds
of sale

86. Where an interest in premises is sold or leased under an order of the court or by a trustee appointed under Part IX, the proceeds received as a result of that disposition, together with any amount paid into court under subsection 67 (2), shall be distributed in accordance with the priorities set out in this Part.

Priorities on
insolvency

87.—(1) Where a payer becomes insolvent, the trust fund of which that payer is trustee shall be distributed so that priority over all others is given to a beneficiary of that trust who has proved a lien and a beneficiary of a trust created by section 8 that is derived from that trust, who has proved a lien.

Idem

(2) Priority in the distribution of trust funds among those who have proved liens shall be in accordance with the respective priorities of their liens as set out in this Part.

Idem

(3) The remaining trust funds shall be distributed among the beneficiaries of that trust and the beneficiaries of trusts created by section 8 that are derived from that trust, whose liens have not been proved, in accordance with the respective priorities to which those liens would have been entitled as set out in this Part, had those liens been proved.

PART XII

MISCELLANEOUS RULES

Costs

88.—(1) Subject to subsection (2), any order as to the costs in an action, application, motion or settlement meeting is in the discretion of the court, and an order as to costs may be made against,

- (a) any party to the action or motion; or
- (b) the solicitor or agent of any party to the action, application or motion, where the solicitor or agent has,
 - (i) knowingly participated in the preservation or perfection of a lien, or represented a party at the trial of an action, where it is clear that the claim for lien is without foundation or is for a grossly excessive amount, or that the lien has expired, or
 - (ii) by his conduct prejudiced or delayed the conduct of the action,

and the order may be made on a solicitor-and-client basis, including where the motion is heard by, or the action has been referred under section 60 to, a master or an appointed local master.

(2) Where the least expensive course is not taken by a party, the costs allowed to him shall not exceed what would have been incurred had the least expensive course been taken.

Where least
expensive
course not
taken

(3) Except where otherwise ordered by the court hearing an appeal, the costs of an appeal shall be on the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court and where it exceeds that amount shall be on the Supreme Court scale.

Scale of
costs

89.—(1) Subject to subsection (3) and, except where otherwise ordered by the court, all documents and notices required to be given or that may be given under this Act, may be served in any manner permitted under the Rules of the Supreme Court or, in the alternative, may be sent by certified or registered mail addressed to the intended recipient at his last known mailing address,

How
documents
may be
given

- (a) according to the records of the person sending the document; or
- (b) as stated on the most recently registered instrument identifying him as a person having an interest in the premises.

(2) In the absence of evidence to the contrary, a document or notice sent to a person by certified or registered mail shall be deemed to have been received by him on the fifth day following the date on which it was mailed, exclusive of Saturdays and holidays.

When
document
deemed
received

Service of
particular
documents,
etc.

(3) Except where otherwise ordered by the court, the following shall not be sent by certified or registered mail but shall be served in the manner provided in the Rules of the Supreme Court for service of a writ of summons:

1. Statement of claim.
2. Notice of trial or settlement meeting.
3. Notice of appeal.

Date of
mailing

(4) Where a document or notice is sent by registered mail, the date appearing on the postal registration receipt shall be deemed conclusively to be the date of mailing.

Regulations

90. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing the appropriate offices of the Crown to which claims for lien must be sent;
- (c) prescribing the form and manner of publication of copies of certificates and declarations of substantial performance under section 32.

Repeal

91. Sections 1 to 51 and section 53 of the *Mechanics' Lien Act*, being chapter 261 of the Revised Statutes of Ontario, 1980, are repealed.

Commence-
ment and
application

92.—(1) This Act comes into force on the 2nd day of April, 1983, and applies to all contracts entered into on or after that date and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Transitional
R.S.O. 1980,
c. 261

(2) Despite section 91, the *Mechanics' Lien Act* continues to apply to all contracts entered into before the 2nd day of April, 1983, and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Idem

(3) Despite section 91, where a contract entered into before the 2nd day of April, 1983 is amended in good faith on or after that date, the *Mechanics' Lien Act* applies to that amendment and to all subcontracts arising under it and to all services or materials supplied thereunder.

Short title

93. The short title of this Act is the *Construction Lien Act, 1983*.

An Act to revise the Mechanics' Lien Act

1st Reading

January 24th, 1983

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

Bill 216

*(Chapter 6
Statutes of Ontario, 1983)*

An Act to revise the Mechanics' Lien Act

The Hon. R. McMurtry
Attorney General

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Bill 216

1983

An Act to revise the Mechanics' Lien Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,Interpre-
tation

1. "action" means an action under Part VIII;
2. "construction trade newspaper" means a newspaper having circulation generally throughout Ontario, that is published no less frequently than on all days except Saturdays and holidays, and in which calls for tender on construction contracts are customarily published, and that is primarily devoted to the publication of matters of concern to the construction industry;
3. "contract" means the contract between the owner and the contractor, and includes any amendment to that contract;
4. "contractor" means a person contracting with or employed directly by the owner or his agent to supply services or materials to an improvement;
5. "court" means the Supreme Court of Ontario;
6. "Crown" includes a Crown agency to which the *Crown Agency Act* applies;
7. "holdback" means the 10 per cent of the value of the services or materials supplied under a contract or subcontract required to be withheld from payment by Part IV;
8. "improvement" means,
 - i. any alteration, addition or repair to, or

R.S.O. 1980,
c. 106

- ii. any construction, erection or installation on, any land, and includes the demolition or removal of any building, structure or works or part thereof, and “improved” has a corresponding meaning;
- 9. “interest in the premises” means an estate or interest of any nature, and includes a statutory right given or reserved to the Crown to enter any lands or premises belonging to any person or public authority for the purpose of doing any work, construction, repair or maintenance in, upon, through, over or under any lands or premises;
- 10. “land” includes any building, structure or works affixed to the land, or an appurtenance to any of them, but does not include the improvement;
- 11. “lien claimant” means a person having a preserved or perfected lien;
- 12. “materials” means every kind of movable property,
 - i. that becomes, or is intended to become, part of the improvement, or that is used directly in the making of the improvement, or that is used to facilitate directly the making of the improvement,
 - ii. that is equipment rented without an operator for use in the making of the improvement;
- 13. “mortgage” includes a charge and “mortgagee” includes a chargee;
- 14. “municipality” means a municipality as defined in the *Municipal Affairs Act* or a metropolitan, regional or district municipality, or a local board thereof;
- 15. “owner” means any person, including the Crown, having an interest in a premises at whose request and,
 - i. upon whose credit, or
 - ii. on whose behalf, or
 - iii. with whose privity or consent, or
 - iv. for whose direct benefit,

an improvement is made to the premises;

16. "payer" means the owner, contractor or subcontractor who is liable to pay for the materials or services supplied to an improvement under a contract or subcontract;
17. "payment certifier" means an architect, engineer or any other person upon whose certificate payments are made under a contract or subcontract;
18. "person having a lien" includes both a lien claimant and a person with an unpreserved lien;
19. "premises" includes,
 - i. the improvement,
 - ii. all materials supplied to the improvement, and
 - iii. the land occupied by the improvement, or enjoyed therewith, or the land upon or in respect of which the improvement was done or made;
20. "price" means the contract or subcontract price,
 - i. agreed upon between the parties, or
 - ii. where no specific price has been agreed upon between them, the actual value of the services or materials that have been supplied to the improvement under the contract or subcontract;
21. "services or materials" includes both services and materials;
22. "subcontract" means any agreement between the contractor and a subcontractor, or between two or more subcontractors, relating to the supply of services or materials to the improvement and includes any amendment to that agreement;
23. "subcontractor" means a person not contracting with or employed directly by the owner or his agent but who supplies services or materials to the improvement under an agreement with the contractor or under him with another subcontractor;
24. "suffers damages as a result" means suffers damages that could be reasonably foreseen to result;

25. "supply of services" means any work done or service performed upon or in respect of an improvement, and includes,

- i. the rental of equipment with an operator, and
- ii. where the making of the planned improvement is not commenced, the supply of a design, plan, drawing or specification that in itself enhances the value of the owner's interest in the land,

and a corresponding expression has a corresponding meaning;

26. "wages" means the money earned by a worker for work done by time or as piece work, and includes all monetary supplementary benefits, whether provided for by statute, contract or collective bargaining agreement;

27. "worker" means a person employed for wages in any kind of labour;

28. "workers' trust fund" means any trust fund maintained in whole or in part on behalf of any worker on an improvement and into which any monetary supplementary benefit is payable as wages for work done by the worker in respect of the improvement;

29. "written notice of a lien" includes a claim for lien and any written notice given by a lien claimant that,

- i. identifies his payer and identifies the premises, and

- ii. states the amount that he has not been paid and is owed to him by his payer.

When
materials
supplied

(2) For the purposes of this Act, materials are supplied to an improvement when they are,

- (a) placed on the land on which the improvement is being made;

- (b) placed upon land designated by the owner or his agent that is in the immediate vicinity of the premises, but placing materials on the land so designated does not, of itself, make that land subject to a lien;
or

- (c) in any event, incorporated into or used in making or facilitating directly the making of the improvement.

(3) A contractor or subcontractor to whom materials are supplied and who designates land under clause (2) (b) is deemed to be the owner's agent for that purpose, unless the person supplying the materials has actual notice to the contrary.

2.—(1) For the purposes of this Act, a contract is substantially performed, When contract substantially performed

- (a) when the improvement to be made under that contract or a substantial part thereof is ready for use or is being used for the purposes intended; and
- (b) when the improvement to be made under that contract is capable of completion or, where there is a known defect, correction, at a cost of not more than,
 - (i) 3 per cent of the first \$500,000 of the contract price,
 - (ii) 2 per cent of the next \$500,000 of the contract price, and
 - (iii) 1 per cent of the balance of the contract price.

(2) For the purposes of this Act, where the improvement or a substantial part thereof is ready for use or is being used for the purposes intended and the remainder of the improvement cannot be completed expeditiously for reasons beyond the control of the contractor or, where the owner and the contractor agree not to complete the improvement expeditiously, the price of the services or materials remaining to be supplied and required to complete the improvement shall be deducted from the contract price in determining substantial performance. Idem

(3) For the purposes of this Act, a contract shall be deemed to be completed and services or materials shall be deemed to be last supplied to the improvement when the price of completion, correction of a known defect or last supply is not more than the lesser of, When contract deemed completed

- (a) 1 per cent of the contract price; and
- (b) \$1,000.

PART I

GENERAL

Act binds
Crown

R.S.O. 1980,
c. 290

3.—(1) Subject to section 16 (where lien does not attach to the premises), this Act binds the Crown but does not apply in respect of a contract as defined in the *Ministry of Transportation and Communications Creditors Payment Act*, and to which that Act applies.

Non-appli-
cation of
R.S.O. 1980,
c. 393, s. 7

(2) Section 7 of the *Proceedings Against the Crown Act* does not apply in respect of an action against the Crown under this Act.

Architect
does not have
lien
R.S.O. 1980,
c. 26

(3) Despite subsection 14 (1), an architect or the holder of a certificate of practice under the *Architects Act* does not have a lien.

No waiver of
rights

4. An agreement by any person who supplies services or materials to an improvement that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void.

Contracts to
conform

5. Every contract or subcontract related to an improvement is deemed to be amended in so far as is necessary to be in conformity with this Act.

Minor irregu-
larities

6. No certificate, declaration or claim for lien is invalidated by reason only of a failure to comply strictly with subsection 32 (2) or (5), subsection 33 (1) or subsection 34 (5), unless in the opinion of the court a person has been prejudiced thereby, and then only to the extent of the prejudice suffered.

PART II

TRUST PROVISIONS

Owner's
trust,
amounts
received for
financing a
trust

7.—(1) All amounts received by an owner, other than the Crown or a municipality, that are to be used in the financing of the improvement, including any amount that is to be used in the payment of the purchase price of the land and the payment of prior encumbrances, constitute, subject to the payment of the purchase price of the land and prior encumbrances, a trust fund for the benefit of the contractor.

Amounts
certified as
payable

(2) Where amounts become payable under a contract to a contractor by the owner on a certificate of a payment certifier, an amount that is equal to an amount so certified that is in the

owner's hands or received by him at any time thereafter constitutes a trust fund for the benefit of the contractor.

(3) Where the substantial performance of a contract has been certified, or has been declared by the court, an amount that is equal to the unpaid price of the substantially performed portion of the contract that is in the owner's hands or is received by him at any time thereafter constitutes a trust fund for the benefit of the contractor.

Where
substantial
performance
certified

(4) The owner is the trustee of the trust fund created by subsection (1), (2) or (3), and he shall not appropriate or convert any part of a fund to his own use or to any use inconsistent with the trust until the contractor is paid all amounts related to the improvement owed to him by the owner.

Obligations
as trustee

8.—(1) All amounts,

- (a) owing to a contractor or subcontractor, whether or not due or payable; or
- (b) received by a contractor or subcontractor,

Contractor's
and sub-
contractor's
trust,
amounts
received a
trust

on account of the contract or subcontract price of an improvement constitute a trust fund for the benefit of the subcontractors and other persons who have supplied services or materials to the improvement who are owed amounts by the contractor or subcontractor.

(2) The contractor or subcontractor is the trustee of the trust fund created by subsection (1) and he shall not appropriate or convert any part of the fund to his own use or to any use inconsistent with the trust until all subcontractors and other persons who supply services or materials to the improvement are paid all amounts related to the improvement owed to them by him.

Obligations
as trustee

9.—(1) Where the owner's interest in a premises is sold by the owner, an amount equal to,

- (a) the value of the consideration received by the owner as a result of the sale,

Vendor's
trust,
amounts
received a
trust

less,

- (b) the reasonable expenses arising from the sale and the amount, if any, paid by the vendor to discharge any existing mortgage indebtedness on the premises,

constitutes a trust fund for the benefit of the contractor.

Obligations
as trustee

(2) The former owner is the trustee of the trust created by subsection (1), and he shall not appropriate or convert any part of the trust property to his own use or to any use inconsistent with the trust until the contractor is paid all amounts owed to him related to the improvement.

Payment
discharging
trust

10. Subject to Part IV (holdbacks), every payment by a trustee to a person he is liable to pay for services or materials supplied to the improvement discharges the trust of the trustee making the payment and his obligations and liability as trustee to all beneficiaries of the trust to the extent of the payment made by him.

Where trust
funds may be
reduced

11.—(1) Subject to Part IV, a trustee who pays in whole or in part for the supply of services or materials to an improvement out of money that is not subject to a trust under this Part may retain from trust funds an amount equal to that paid by him without being in breach of the trust.

Application
of trust funds
to discharge
loan

(2) Subject to Part IV, where a trustee pays in whole or in part for the supply of services or materials to an improvement out of money that is loaned to him, trust funds may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and the application of trust money does not constitute a breach of the trust.

Set-off by
trustee

12. Subject to Part IV, a trustee may, without being in breach of trust, retain from trust funds an amount that, as between himself and the person he is liable to pay under a contract or subcontract related to the improvement, is equal to the balance in the trustee's favour of all outstanding debts, claims or damages, whether or not related to the improvement.

Liability for
breach of
trust by
corporation

13.—(1) In addition to the persons who are otherwise liable in an action for breach of trust under this Part,

(a) every director or officer of a corporation; and

(b) any person, including an employee or agent of the corporation, who has effective control of a corporation or its relevant activities,

who assents to, or acquiesces in, conduct that he knows or reasonably ought to know amounts to breach of trust by the corporation is liable for the breach of trust.

(2) The question of whether a person has effective control of a corporation or its relevant activities is one of fact and in determining this the court may disregard the form of any transaction and the separate corporate existence of any participant.

Effective control of corporation

(3) Where more than one person is found liable or has admitted liability for a particular breach of trust under this Part, those persons are jointly and severally liable.

Joint and several liability

(4) A person who is found liable, or who has admitted liability, for a particular breach of a trust under this Part is entitled to recover contribution from any other person also liable for the breach in such amount as will result in equal contribution by all parties liable for the breach unless the court considers such apportionment would not be fair and, in that case, the court may direct such contribution or indemnity as the court considers appropriate in the circumstances.

Contribution

PART III

THE LIEN

14.—(1) A person who supplies services or materials to an improvement for an owner, contractor or subcontractor, has a lien upon the interest of the owner in the premises improved for the price of those services or materials.

Creation of lien

(2) No person is entitled to a lien for any interest on the amount owed to him in respect of the services or materials that have been supplied by him, but nothing in this subsection affects any right that he may otherwise have to recover that interest.

No lien for interest

15. A person's lien arises and takes effect when he first supplies his services or materials to the improvement.

When lien arises

16.—(1) A lien does not attach to the interest of the Crown in a premises.

Interest of Crown

(2) Where an improvement is made to a premises in which the Crown has an interest, but the Crown is not an owner within the meaning of this Act, the lien may attach to the interest of any other person in that premises.

Interest of person other than Crown

(3) Where the Crown is the owner of a premises within the meaning of this Act, or where the premises is,

Where lien does not attach to premises

- (a) a public street or highway owned by a municipality; or

(b) a railway right-of-way,

the lien does not attach to the premises but constitutes a charge as provided in section 21, and the provisions of this Act shall have effect without requiring the registration of a claim for lien against the premises.

Limitation on
value of lien

17.—(1) The lien of a person is limited to the amount owing to him in relation to the improvement and, subject to Part IV (holdbacks), it is further limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien.

Idem

(2) Subject to Part IV, the total value of the liens of all members of a class, as defined in section 81, is limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials made by the members of the class.

Set-off

(3) Subject to Part IV, in determining the amount of a lien under subsection (1) or (2), there may be taken into account the amount that is, as between a payer and the person he is liable to pay, equal to the balance in the payer's favour of all outstanding debts, claims or damages, whether or not related to the improvement.

Public
highway,
liability of
municipality
re

(4) Despite subsection (1), where land is dedicated to a municipality as a public street or highway and an improvement is made to the land at the written request of, or under an agreement with, the municipality, but not at its expense, the municipality shall nevertheless, on default of payment by the proper payer, be liable to the value of the holdbacks under Part IV that would have been required were the improvement made at the expense of the municipality, and the procedure for making a claim under this subsection shall be the same as for enforcing a claim for lien against a municipality in respect of a public street or highway.

Joint or
common
interests

18. Where the interest of the owner in the premises is held jointly or in common with another person who knew or ought reasonably to have known of the making of the improvement, the joint or common interest in the premises of that person is also subject to the lien unless the contractor receives actual notice, before the supply of services or materials to the improvement is commenced, that the person having the joint or common interest assumes no responsibility for the improvement to be made.

19.—(1) Where the interest of the owner to which the lien attaches is leasehold, the interest of the landlord shall also be subject to the lien to the same extent as the interest of the owner if the contractor gives the landlord written notice of the improvement to be made, unless the landlord, within fifteen days of receiving the notice from the contractor, gives the contractor written notice that the landlord assumes no responsibility for the improvement to be made.

Where
owner's
interest
leasehold

(2) No forfeiture of a lease to, or termination of a lease by, a landlord, except for non-payment of rent, deprives any person having a lien against the leasehold of the benefit of his lien.

Forfeiture or
termination
of lease,
effect of

(3) Where a landlord intends to enforce forfeiture or terminate a lease of the premises because of non-payment of rent, and there is a claim for lien registered against the premises in the proper land registry office, the landlord shall give notice in writing of his intention to enforce forfeiture or terminate the lease and of the amount of the unpaid rent to each person who has registered a claim for lien against the premises.

Notice to lien
claimants

(4) A person receiving notice under subsection (3) may, within ten days thereafter, pay to the landlord the amount of the unpaid rent, and the amount so paid may be added by that person to his claim for lien.

Payment of
unpaid rent

20. Where an owner enters into a single contract for improvements on more than one premises owned by him, any person supplying services or materials under that contract, or under a subcontract under that contract, may choose to have his lien follow the form of the contract and be a general lien against each of those premises for the price of all services and materials he supplied to all the premises.

General lien

21. The lien of a person is a charge upon the holdbacks required to be retained by Part IV, and subject to subsection 17 (3), any additional amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien.

Lien a charge

PART IV

HOLDBACKS

22.—(1) Each payer upon a contract or subcontract under which a lien may arise shall retain a holdback equal to 10 per cent of the price of the services or materials as they are actually supplied under the contract or subcontract until all liens

Basic
holdback

that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

Separate
holdback for
finishing
work

(2) Where the contract has been certified or declared to be substantially performed but services or materials remain to be supplied to complete the contract, the payer upon the contract, or a subcontract, under which a lien may arise shall retain, from the date certified or declared to be the date of substantial performance of the contract, a separate holdback equal to 10 per cent of the price of the remaining services or materials as they are actually supplied under the contract or subcontract, until all liens that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

When
obligation to
retain applies

(3) The obligation to retain the holdbacks under subsections (1) and (2) applies irrespective of whether the contract or subcontract provides for partial payments or payment on completion.

Personal
liability of
owner

23.—(1) An owner is personally liable to those lien claimants who have valid liens against his interest in the premises to the extent of the holdbacks that he is required to retain under this Part.

How
determined

(2) The personal liability of an owner under subsection (1) may only be determined in an action under this Act.

Payments
that may be
made

24.—(1) A payer may, without jeopardy, make payments on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract unless, prior to making payment, the payer has received written notice of a lien.

Idem

(2) Where a payer has received written notice of a lien and has retained, in addition to the holdbacks required by this Part, an amount sufficient to satisfy the lien, the payer may, without jeopardy, make payment on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract, less the amount retained.

Payment
where
subcontract
certified
complete

25. Where a subcontract has been certified complete under section 33, each payer upon the contract and any subcontract may, without jeopardy, make payment reducing the holdbacks required by this Part to the extent of the amount of holdback he has retained in respect of the completed subcontract, where all liens in respect of the completed subcontract have expired as provided in Part V, or have been satisfied,

discharged or provided for under section 44 (payment into court).

26. Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (1) (basic holdback), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Payment of
basic
holdback

27. Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (2) (holdback for finishing work), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Payment of
holdback for
finishing
work

28. Where an owner, contractor or subcontractor makes a payment without obligation to do so to any person having a lien for or on account of any amount owing to that person for services or materials supplied to the improvement and gives written notice of the payment or his intention to pay to the proper payer of that person, the payment shall be deemed to be a payment by the owner, contractor or subcontractor to the proper payer of that person, but no such payment reduces the amount of the holdback required to be retained under this Part or reduces the amount that must be retained in response to a written notice of lien given by a person other than the person to whom payment is made.

Direct
payment to
person
having lien

29. Payments made in accordance with this Part operate as a discharge of the lien to the extent of the amount paid.

Discharge,
extent of

30. Where the contractor or a subcontractor defaults in the performance of his contract or subcontract, a holdback shall not be applied by any payer toward obtaining services or materials in substitution for those that were to have been supplied by the person in default, nor in payment or satisfaction of any claim against the person in default, until all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

How
holdback not
to be applied

PART V

EXPIRY, PRESERVATION AND PERFECTION OF LIENS

Expiry of
liens

31.—(1) Unless preserved under section 34, the liens arising from the supply of services or materials to an improvement expire as provided in this section.

Contractor's
liens

(2) Subject to subsection (4), the lien of a contractor,

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five day period next following the occurrence of the earlier of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published as provided in section 32, and

(ii) the date the contract is completed or abandoned; and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of substantial performance, expires at the conclusion of the forty-five day period next following the occurrence of the earlier of,

(i) the date the contract is completed, and

(ii) the date the contract is abandoned.

Liens of
other persons

(3) Subject to subsection (4), the lien of any other person,

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five day period next following the occurrence of the earliest of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published, as provided in section 32, and

(ii) the date on which he last supplies services or materials to the improvement, and

(iii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract; and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five day period next following the occurrence of the earlier of,

(i) the date on which he last supplied services or materials to the improvement, and

(ii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract.

(4) Where a person has supplied services or materials to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract and has also supplied, or is to supply, services or materials after that date, his lien in respect of the services or materials supplied on or before the date of substantial performance expires without affecting any lien that he may have for the supply of services or materials after that date.

Separate
liens when
ongoing
supply

(5) Where a person who has supplied services or materials under a contract or subcontract makes a declaration in the prescribed form declaring,

Declaration
of last supply

(a) the date on which he last supplied services or materials under that contract or subcontract; and

(b) that he will not supply any further services or materials under that contract or subcontract,

then the facts so stated shall be deemed to be true against the person making the declaration.

Rules
governing
certification
or
declaration
of substantial
performance

32.—(1) The following rules govern the certification and declaration of the substantial performance of a contract:

1. On the application of the contractor, the payment certifier, or if there is no payment certifier, the owner and the contractor jointly shall determine whether a contract has been substantially performed in accordance with section 2, and where he or they so determine, shall certify the substantial performance of the contract by signing a certificate in the prescribed form.
2. The payment certifier or the owner and the contractor jointly, as the case may be, shall set out in the certificate the date on which the contract was substantially performed.
3. The date set out in the certificate as the date on which the contract was substantially performed is deemed for the purpose of this Act to be the date on which that event occurred.
4. Where the payment certifier certifies the substantial performance of a contract he shall within seven days of the day the certificate is signed give a copy of the certificate to the owner and to the contractor.
5. The contractor shall publish a copy of the certificate once in a construction trade newspaper.
6. Where the contractor does not publish a copy of the certificate within seven days of receiving a copy of the certificate signed by the payment certifier or, where there is no payment certifier, signed by the owner, any person may publish a copy of the certificate.
7. Where there is a failure or refusal to certify substantial performance of the contract within a reasonable time, any person may apply to the court, and the court, upon being satisfied that the contract is substantially performed, and upon such terms as to costs or otherwise as it considers fit, may declare that the contract has been substantially performed, and the declaration has the same force and effect as a certificate of substantial performance of the contract.
8. Unless the court otherwise orders, the day the declaration is made shall be deemed to be the date the contract was substantially performed.

9. The person who applied to the court shall publish a copy of the declaration of substantial performance once in a construction trade newspaper.
10. For the purposes of this Part, a certificate or declaration of the substantial performance of a contract has no effect until a copy of the certificate or declaration is published.

(2) Every certificate or declaration made or given under this section shall include, Contents of certificate

- (a) the name and address for service of the owner and of the contractor;
- (b) the name and address of the payment certifier, where there is one;
- (c) a short description of the improvement;
- (d) the date on which the contract was substantially performed;
- (e) where the lien attaches to the premises, a concise description containing a reference to lot and plan or instrument registration number sufficient to identify the premises; and
- (f) the street address, if any, of the premises.

(3) Any person who is required by this section to make a determination of the substantial performance of a contract, and who after receiving an application fails or refuses within a reasonable time to certify the substantial performance of the contract, even though there is no reasonable doubt that the contract has, in fact, been substantially performed, is liable to anyone who suffers damages as a result. Liability for refusal to certify

(4) A payment certifier who fails to comply with paragraph 4 of subsection 32 (1) is liable to anyone who suffers damages as a result. Liability for failure to furnish copy of certificate

(5) A construction trade newspaper shall publish upon commercially reasonable terms copies of certificates or declarations of substantial performance in the prescribed form and manner. Manner of publication

33.—(1) Upon the request of the contractor, the payment certifier on the contract, or the owner and the contractor jointly, may determine whether a subcontract has been completed, and where he or they so determine, he or they may Certificate re subcontract

certify the completion of the subcontract in the prescribed form.

Date
subcontract
deemed
completed

(2) Where a subcontract is certified to be completed, the subcontract shall be deemed to have been completed on the date of certification.

Services or
materials
supplied after
subcontract
certified
completed

(3) If services or materials are supplied to the improvement under or in respect of a subcontract after the date the subcontract is certified to be completed, those services or materials shall be deemed to have been last supplied on the date of certification.

Copy of
certificate

(4) Within seven days of the date the subcontract is certified to be completed, the payment certifier or the owner and the contractor, as the case may be, shall give a copy of the certificate,

(a) to the subcontractor whose subcontract has been certified as complete; and

(b) to the owner and the contractor, where certification is by the payment certifier.

How lien
preserved

34.—(1) A lien may be preserved during the supplying of services or materials or at any time before it expires,

(a) where the lien attaches to the premises, by the registration in the proper land registry office of a claim for lien on the title of the premises in accordance with this Part; and

(b) where the lien does not attach to the premises, by giving to the owner a copy of the claim for lien together with the affidavit of verification required by subsection (6).

Public
highway

(2) Where a claim for lien is in respect of a public street or highway owned by a municipality, the copy of the claim for lien and affidavit shall be given to the clerk of the municipality.

Premises
owned by
Crown

(3) Where the owner of the premises is the Crown, the copy of the claim for lien and affidavit shall be given to the office prescribed by regulation, or where no office has been prescribed, to the ministry or Crown agency for whom the improvement is made.

Railway
right-of-way

(4) Where the premises is a railway right-of-way, the copy of the claim for lien and affidavit shall be given to the manager or

any person apparently in charge of any office of the railway in Ontario.

(5) Every claim for lien shall set out,

Contents of
claim for lien

- (a) the name and address for service of the person claiming the lien and the name and address of the owner of the premises and of the person for whom the services or materials were supplied and the time within which those services or materials were supplied;
- (b) a short description of the services or materials that were supplied;
- (c) the contract price or subcontract price;
- (d) the amount claimed in respect of services or materials that have been supplied; and
- (e) a description of the premises,
 - (i) where the lien attaches to the premises, sufficient for registration under the *Land Titles Act* or the *Registry Act*, as the case may be, or
 - (ii) where the lien does not attach to the premises, being the address or other identification of the location of the premises.

R.S.O. 1980,
cc. 230, 445

(6) A claim for lien shall be verified by an affidavit of the person claiming the lien, including a trustee of the workers' trust fund where subsection 83 (2) applies, or of an agent or assignee of the claimant who has informed himself of the facts set out in the claim, and the affidavit of the agent or assignee shall state that he believes those facts to be true.

Affidavit of
verification

(7) Subject to subsection 44 (4) (apportionment), a general lien shall be preserved against each of the premises that the person having the lien desires the lien to continue to apply against, and the claim against each premises may be for the price of the services or materials that have been supplied to all the premises.

Preservation
of general
lien

(8) Any number of persons having liens upon the same premises may unite in a claim for lien, but where more than one lien is included in one claim, each person's lien shall be verified by affidavit as required by subsection (6).

Who may
join in claim

Liability for exaggerated claim, etc.

35. In addition to any other ground on which he may be liable, any person who preserves a claim for lien or who gives written notice of a lien,

- (a) for an amount which he knows or ought to know is grossly in excess of the amount which he is owed; or
- (b) where he knows or ought to know that he does not have a lien,

is liable to any person who suffers damages as a result.

What liens may be perfected

36.—(1) A lien may not be perfected unless it is preserved.

Expiry of preserved lien

(2) A lien that has been preserved expires unless it is perfected prior to the end of the forty-five day period next following the last day, under section 31, on which the lien could have been preserved.

How lien perfected

(3) A lien claimant perfects his preserved lien,

- (a) where the lien attaches to the premises, when he commences an action to enforce his lien and, except where an order to vacate the registration of his lien is made, he registers a certificate of action in the prescribed form on the title of the premises; or
- (b) where the lien does not attach to the premises, when he commences an action to enforce his lien.

Rules re sheltering

(4) A preserved lien becomes perfected by sheltering under a lien perfected by another lien claimant in respect of the same improvement in accordance with the following rules:

1. The preserved lien of a lien claimant is perfected by sheltering under the perfected lien of another lien claimant in respect of the same improvement where,
 - i. the lien of that other lien claimant was a subsisting perfected lien at the time when the lien of the lien claimant was preserved, or
 - ii. the lien of that other lien claimant is perfected in accordance with clause (3) (a) or (b) between the time when the lien of the lien claimant was preserved and the time that the lien of the lien claimant would have expired under subsection (2).

2. The validity of the perfection of a sheltered lien does not depend upon the validity, proper preservation or perfection of the lien under which it is sheltered.
3. A sheltered claim for lien is perfected only as to the defendants and the nature of the relief claimed in the statement of claim under which it is sheltered.
4. Upon notice given by a defendant named in a statement of claim, any lien claimant whose lien is sheltered under that statement of claim shall provide the defendant with further particulars of his claim or of any fact alleged in his claim for lien.

(5) Subject to subsection 44 (4) (apportionment), a preserved general lien that attaches to the premises shall be perfected against each premises to which the person having the lien desires the lien to continue to apply. General lien

37.—(1) A perfected lien expires where,

Expiry of
perfected lien

- (a) no day is fixed under section 62 for the trial of an action in which that lien may be realized; or
- (b) an action in which that lien may be realized is not set down for trial,

within two years of the date of the commencement of the action which perfected that lien.

(2) Where a lien has expired under subsection (1), an application may be made under section 46. Application
under s. 46

38. The expiration of a lien under this Act shall not affect any other legal or equitable right or remedy otherwise available to the person whose lien has expired. Saving other
rights

PART VI

RIGHT TO INFORMATION

39.—(1) Any person having a lien or who is the beneficiary of a trust under Part II or who is a mortgagee may, at any time, by written request, require information to be provided within a reasonable time, not to exceed twenty-one days, as follows: Right to
information;

1. By the owner or contractor, with,

from owner
or contractor

- i. the names of the parties to the contract,

- ii. the contract price,
- iii. the state of accounts between the owner and the contractor, and
- iv. a copy of any labour and material payment bond in respect of the contract posted by the contractor with the owner.

from
contractor or
subcontractor

2. By the contractor or a subcontractor, with,

- i. the names of the parties to a subcontract,
- ii. the state of accounts between the contractor and a subcontractor or between a subcontractor and another subcontractor,
- iii. a statement of whether there is a provision in a subcontract providing for certification of the subcontract,
- iv. a statement of whether a subcontract has been certified as complete, and
- v. a copy of any labour and material payment bond posted by a subcontractor with the contractor or by a subcontractor with another subcontractor.

from
mortgagee or
unpaid
vendor

(2) Any person having a lien or any beneficiary of a trust under Part II may, at any time, by written request, require a mortgagee or unpaid vendor to provide him within a reasonable time, not to exceed twenty-one days, with,

- (a) sufficient details concerning any mortgage on the premises to enable the person who requests the information to determine whether the mortgage was taken by the mortgagee for the purposes of financing the making of the improvement;
- (b) a statement showing the amount advanced under the mortgage, the dates of those advances, and any arrears in payment including any arrears in the payment of interest; or
- (c) a statement showing the amount secured under the agreement of purchase and sale and any arrears in payment including any arrears in the payment of interest.

(3) The trustee of a workers' trust fund may at any time by written request require any contractor or subcontractor to permit him, within a reasonable time after making the request, not to exceed twenty-one days, to inspect the payroll records of all workers who are beneficiaries of the fund, and who have supplied labour to the making of the improvement, and who are employed by the contractor or the subcontractor.

by trustee or
workers'
trust fund

(4) A contractor shall, upon written request whenever made to him by any person, within a reasonable time furnish in writing to the person the date of publication and the name of the construction trade newspaper in which a copy of a certificate of substantial performance has been published under subsection 32 (1).

respecting
publication
of certificate
of substantial
performance

(5) Where a person, who is required under subsection (1), (2), (3) or (4) to provide information or access to information, does not provide the information or access to information as required or knowingly or negligently mis-states that information, he is liable to the person who made the request for any damages sustained by reason thereof.

Liability for
failure to
provide
information

(6) Upon motion, the court may at any time, whether or not an action has been commenced, order a person to comply with a request that has been made to him under this section and when making the order, the court may make any order as to costs as it considers appropriate in the circumstances, including an order for the payment of costs on a solicitor-and-client basis.

Order by
court to
comply with
request

40.—(1) Any person who has verified a claim for lien that has been preserved is liable to be cross-examined without an order on the claim for lien at any time, irrespective of whether an action has been commenced.

Cross-
examination
on claim for
lien

(2) There shall be only one examination under subsection (1), but the contractor, the payer of the lien claimant, and every person named in the claim for lien who has an interest in the premises are entitled to participate therein.

Who may
participate

(3) Any person intending to examine a person under subsection (1) shall give at least seven days notice of the examination specifying the time and place for the examination to,

Notice

- (a) the person to be examined or his solicitor;
- (b) every other person named in the claim for lien as having an interest in the premises;
- (c) the contractor; and

(d) the payer of the lien claimant.

Application
of rules of
practice

(4) The Supreme Court Rules of Practice pertaining to examinations apply, with necessary modifications, to cross-examinations under this section.

PART VII

DISCHARGE OF PRESERVED OR PERFECTED LIENS

Discharge of
lien claim by
release

41.—(1) A preserved or perfected lien may be discharged,

- (a) where the lien attaches to the premises, by the registration of a release in the prescribed form on the title to the premises and the release shall, except where the lien claimant is a corporation, be supported by an affidavit of execution; or
- (b) where the lien does not attach to the premises, by giving a release in the prescribed form to the owner, in the manner set out in section 34 for the giving of copies of the claim for lien.

Withdrawal
of notice of
lien

(2) A written notice of a lien may be withdrawn by giving a withdrawal in writing to the person to whom the written notice of a lien was given, and a payer given the withdrawal shall, in respect of the operation of subsection 24 (2), be in the same position as if the written notice of a lien had never been given.

Discharge of
general lien

42. A preserved or perfected general lien may be discharged against any one or more of the premises that are subject to it, without affecting its application to any other premises to which it applies, by the registration of a release in the prescribed form on the title to the premises released.

Postpone-
ment of lien
claim

43. A preserved or perfected lien may be postponed in favour of the interest of another person in the premises by the registration on the title to the premises of a notice of postponement in the prescribed form, and in that case, subsection 80 (8) applies (priorities in event of postponement).

Vacating lien
by payment
into court;
without
notice

44.—(1) Upon the motion of any person, without notice to any other person, the court shall make an order vacating,

- (a) where the lien attaches to the premises, the registration of a claim for lien and any certificate of action in respect of that lien; or
- (b) where the lien does not attach to the premises, the claim for lien,

where the person bringing the motion pays into court, or posts security in an amount equal to, the total of,

- (c) the full amount claimed as owing in the claim for lien; and
- (d) the lesser of \$50,000 or 25 per cent of the amount described in clause (c), as security for costs.

(2) Upon the motion of any person, the court may make an order vacating the registration of a claim for lien, and any certificate of action in respect of that lien, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy the lien.

on payment
in of
reasonable
amount

(3) Where the lien does not attach to the premises, the court may make an order, upon the motion of any person, vacating a claim for lien given to the owner, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy the lien.

Where lien
does not
attach to
premises

(4) Where a motion is made to vacate the registration of a general lien against one or more of the premises subject to that lien, the court may apportion the general lien between the premises in respect of which the application is made and all other premises that are subject to the lien.

Where
general lien

(5) Where an amount has been paid into court or security has been posted with the court under this section, the court, upon notice to such persons as it may require, may order where it is appropriate to do so,

Reduction of
amount paid
into court

- (a) the reduction of the amount paid into court, and the payment of any part of the amount paid into court to the person entitled; or
- (b) the reduction of the amount of security posted with the court, and the delivery up of the security posted with the court for cancellation or substitution, as the case may be.

(6) Where an order is made under clause (1) (a) or subsection (2), the lien ceases to attach to the premises and ceases to attach to the holdbacks and other amounts subject to a charge under section 21, and becomes instead a charge upon the amount paid into court or security posted, and the owner or payer shall, in respect of the operation of sections 21, 23 and 24, be in the same position as if the lien had not been preserved or written notice of the lien had not been given.

Lien a charge
upon amount
paid into
court

Idem

(7) Where an order is made under clause (1) (b) or subsection (3), the lien ceases to attach to the holdbacks and other amounts subject to a charge under section 21 and becomes instead a charge upon the amount paid into court or security posted and the owner or payer shall, in respect of the operation of sections 21, 23 and 24, be in the same position as if the lien had not been preserved or written notice of the lien had not been given.

Consolidation of motions

(8) Where more than one motion is made under subsection (1), (2) or (3) for the payment into court or posting of security to obtain an order vacating the registration of one or more preserved or perfected liens arising from the same improvement, the court may consolidate the motions and require that the amount paid into court or security posted be adequate to satisfy all the liens that are the subject of each of the motions, or make any other order that it considers appropriate.

Rules

(9) Where an order is made under subsection (1), (2) or (3), the following rules apply:

1. The lien claimant whose lien was the subject of the order may proceed with an action to enforce his claim against the amount paid into court or security posted in accordance with the procedures set out in Part VIII, but no certificate of action shall be registered against the premises.
2. The amount paid into court or security posted is subject to the claims of all persons having a lien to the same extent as if the amount paid into court or security posted was realized by the sale of the premises in an action to enforce the lien and shall be distributed among all lien claimants in accordance with the priorities provided for in section 82.
3. Where any amount is realized in a lien action by the sale of the premises or otherwise, it shall be pooled into a common fund with the amount paid into court or security posted under this section, and shall be distributed among all lien claimants in accordance with the priorities provided for in section 82.

Declaration by court that preserved lien has expired

45.—(1) Where a lien that attaches to the premises is not preserved or is not perfected within the time allowed for doing so under section 31 or 36, the court upon,

- (a) the motion of any person without notice to any other person;

(b) proof that the lien has not been preserved or perfected within the time allowed; and

(c) production of,

(i) a certificate of search under the *Land Titles Act*, or R.S.O. 1980,
c. 230

(ii) a registrar's abstract under the *Registry Act*, R.S.O. 1980,
c. 445

together with a certified copy of the claim for lien,

shall declare that the lien has expired and order that the registration of the claim for lien be vacated.

(2) Where the court is satisfied that a lien that does not attach to the premises has not been preserved or perfected within the time allowed for doing so under section 31 or 36, the court upon the motion of any person without notice to any other person shall declare that the lien has expired. Idem

(3) Where a declaration is made under subsection (1) or (2), the court shall order that, Order
returning
amount paid
into court or
cancelling
security

(a) any amount that has been paid into court under section 44 in respect of that lien be returned to the person who paid the amount into court; and

(b) any security that has been posted under section 44 in respect of that lien be cancelled.

46.—(1) Where a perfected lien that attaches to the premises has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to enforce that lien and vacating the registration of a claim for lien and the certificate of action in respect of that action. Order
dismissing
action, etc.

(2) Where a perfected lien that does not attach to the premises has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to realize upon that lien. Idem

(3) A motion under subsection (1) or (2) may be brought without notice, but no order as to costs in the action may be made upon the motion unless notice of that motion was given to the person against whom the order for costs is sought. Costs

Order
returning
money paid
into court or
cancelling
security

(4) Where an action is dismissed under subsection (1) or (2), the court shall order that,

- (a) any amount that has been paid into court under section 44 in respect of that action be returned to the person who paid the amount into court; and
- (b) any security that has been posted under section 44 in respect of that action be cancelled.

General
power to
discharge lien

47.—(1) Upon motion, the court may,

- (a) order the discharge of a lien;
- (b) order that the registration of,
 - (i) a claim for lien, or
 - (ii) a certificate of action,

or both, be vacated;

- (c) declare, where written notice of a lien has been given, that the lien has expired, or that the written notice of the lien shall no longer bind the person to whom it was given; or
- (d) dismiss an action,

upon any proper ground and subject to any terms and conditions that the court considers appropriate in the circumstances.

Direction by
court

(2) Where a certificate of action is vacated under subsection (1), and there remain liens which may be enforced in the action to which that certificate relates, the court shall give any directions that are necessary in the circumstances in respect of the continuation of that action.

Discharge
irrevocable

48. A discharge of a lien under this Part is irrevocable and the discharged lien cannot be revived, but no discharge affects the right of the person whose lien was discharged to claim a lien in respect of services or materials supplied by him subsequent to the preservation of the discharged lien.

Registration

49. Where the lien attaches to the premises, an order declaring that a lien has expired, or discharging a lien, or vacating the registration of a claim for lien or a certificate of action, may be registered by registering on the title to the premises a certified copy of the order that includes a description of the

premises sufficient for registration under the *Registry Act* or the *Land Titles Act*, as the case may be, and a reference to the registration number of every preserved or perfected claim for lien and certificate of action thereby affected.

R.S.O. 1980,
cc. 445, 230

PART VIII

JURISDICTION AND PROCEDURE

50.—(1) A lien claim is enforceable in an action in the Supreme Court in accordance with the procedure set out in this Part.

Lien claim
enforceable
in action

(2) A trust claim shall not be joined with a lien claim but may be brought in any court of competent jurisdiction.

Trust claim
and lien
claim not to
be joined

(3) Any number of lien claimants whose liens are in respect of the same owner and the same premises may join in the same action.

Joinder in
action

51.—(1) Where the premises or a part thereof are situate in the Judicial District of York, an action shall be tried by a judge of the court.

Where
premises
situate in
Judicial
District of
York

(2) Where the premises are situate outside the Judicial District of York, an action shall be tried,

Where
premises
situate
outside
Judicial
District of
York

- (a) by a local judge of the court having jurisdiction in the county or district in which the premises or a part thereof are situate;
- (b) on consent of the persons to whom a notice of trial must be given and on the order of the local judge otherwise having jurisdiction over the action, by a local judge of the court in a county or district other than the one in which the premises or a part thereof are situate, but not in the Judicial District of York; or
- (c) where upon motion the local judge so orders, by a judge of the court at the regular sittings of the court for the trial of actions in the county or district in which the premises or a part thereof are situate.

(3) Where the premises or a part thereof are situate in more than one county or district, an action may be tried by any judge or local judge who has jurisdiction under subsection (1) or (2) in any of the counties or districts in which the premises are situate.

Where
premises
situate in
more than
one county

Powers of
master, etc.

52.—(1) Except as provided in subsection (2),

- (a) a master, where the premises or a part thereof are situate in the Judicial District of York;
- (b) a local master appointed for, or a master assigned to, the county or district in which the premises or a part thereof are situate, where the premises are situate outside the Judicial District of York;
- (c) a local judge, where the local judge has ordered that the action be tried by a judge of the court under clause 51 (2) (c),

has jurisdiction to hear and dispose of any motion under this Act, including a motion brought prior to the commencement of an action, and all motions relating to the conduct of an action or reference under this Act.

What matters
not to be
dealt with by
master

(2) A master or appointed local master shall not hear or dispose of,

- (a) a motion for the trial of the action by a judge under clause 51 (2) (c);
- (b) a motion for the reference of an action to a master or appointed local master for trial;
- (c) an originating application; or
- (d) a motion in respect of an appeal.

Further
powers of
master

(3) In addition to his jurisdiction under subsection (1), a master or appointed local master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court.

Court to
dispose
completely of
action

53. The court, whether the action is being tried by a judge or local judge, or by a master or an appointed local master on a reference,

- (a) shall try the action, including any set-off, crossclaim, counterclaim, and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of

the persons appearing before it or upon whom notice of trial has been served; and

- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

54. A judge, local judge, master or an appointed local master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of his appointing the time and place for the trial of the action or reference, or for the holding of a settlement meeting.

Where exclusive jurisdiction not acquired

55.—(1) An action shall be commenced by filing a statement of claim in the office of the registrar or local registrar of the court in the county or district in which the premises or a part thereof are situate.

How action commenced

(2) The statement of claim shall be served within ninety days after it is filed, but the court may, upon a motion made before or after the expiration of that period of time, extend the time for service.

Service of statement of claim

(3) A crossclaim or counterclaim by any person shall accompany his statement of defence, but on motion the court may grant leave to deliver a crossclaim or counterclaim after this time where it is appropriate to do so, and where leave is granted, the court may,

Crossclaim or counterclaim

- (a) make any order as to costs that it considers appropriate; and

- (b) give directions as to the conduct of the action.

56.—(1) The time for delivering a statement of defence to a lien claim, crossclaim, counterclaim or third party claim shall be twenty days.

Time for delivery of pleadings

(2) Where a person against whom a claim is made in a statement of claim, counterclaim, crossclaim or third party claim defaults in the delivery of a statement of defence in respect of that claim, pleadings may be noted closed against him in respect of that claim.

Noting pleadings closed

(3) Where pleadings have been noted closed against a defendant or third party under subsection (2), he shall not be permitted to contest the claim of the person who named him as a de-

Effect of default in defence

fendant or third party, or to file a statement of defence, except with leave of the court, to be given only where the court is satisfied that there is evidence to support a defence, and where leave is granted, the court,

(a) may make any order as to costs that it considers appropriate; and

(b) may give directions as to the conduct of the action.

Allegations
of fact
deemed
admitted

(4) Except where leave has been granted under subsection (3), a defendant or third party against whom pleadings have been noted closed under subsection (2) shall be deemed to admit all allegations of fact made in the statement of claim, counterclaim, crossclaim or third party claim, as the case may be, and shall not be entitled to notice of or to participate in the trial of the action or any proceeding in respect of the action and judgment may be given against him.

Warning to
be included

(5) Every statement of claim, crossclaim, counterclaim or third party claim shall include the following warning:

“WARNING: If you wish to defend against this claim, you are required to deliver a statement of defence within twenty days. Should you fail to deliver a statement of defence as required, pleadings may be noted closed against you, and you shall be deemed to admit all allegations of fact contained in this claim, and you shall not be entitled to notice of or to participate in the trial or any proceeding in respect of this claim and judgment may be given against you.”

Joinder of
claims

57.—(1) A plaintiff in an action may join with his lien claim a claim for breach of his contract or subcontract.

Counter-
claims and
crossclaims

(2) A defendant in an action may,

(a) counterclaim against the person who named him as a defendant in respect of any claim that he may be entitled to make against that person, whether or not that claim is related to the making of the improvement;

(b) crossclaim against a co-defendant in respect of any claim that he may be entitled to make against that person related to the making of the improvement.

58. The following rules govern third party proceedings:

Rules re third party proceedings

1. Subject to paragraph 2, a person against whom a claim is made in a statement of claim, crossclaim, counterclaim or third party claim may join a person who is not a party to the action as a third party for the purpose of claiming contribution or indemnity from the third party in respect of that claim.
2. A person may only be joined as a third party with leave of the court upon a motion made with notice to the owner and all persons having subsisting preserved or perfected liens at the time of the motion, but such leave shall not be given unless the court is satisfied that the trial of the third party claim will not,
 - i. unduly prejudice the ability of the third party or of any lien claimant or defendant to prosecute his claim or conduct his defence, or
 - ii. unduly delay or complicate the resolution of the lien action.
3. The court may give such directions as it considers appropriate in the circumstances in respect of the conduct of third party proceedings.

59.—(1) The person serving the notice of trial and all persons served with notice of trial are parties to the action. Parties

(2) Subject to section 56, the court may at any time add or join any person as a party to the action. Adding parties

60.—(1) On motion made after the delivery of all statements of defence, or the statements of defence to all cross-claims, counterclaims, or third party claims, if any, or the time for their delivery has expired, Reference to master, etc.

(a) a judge may refer to a master; or

(b) a local judge may refer to a master assigned to, or a local master appointed for, the county or district in which the trial is to take place,

the whole action for trial under section 71 of the *Judicature Act*. R.S.O. 1980, c. 223

(2) At the trial, Idem

(a) a judge may direct a reference to a master; or

- (b) a local judge may direct a reference to a master assigned to, or a local master appointed for, the county or district in which the trial is to take place,

R.S.O. 1980,
c. 223

under section 70 or 71 of the *Judicature Act*.

Application
to set aside
order of
reference

(3) Where under subsection (1), the action has been referred to the master or local master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge or the local judge of the court who directed the reference to set aside the judgment directing the reference.

Effect on
subsequent
party to
action

(4) Where no motion is made under subsection (3), or where the motion is refused, the person who subsequently became a party to the action is bound by the judgment directing the reference as if he had been a party to the action at the time the reference was directed.

Carriage of
action

61.—(1) The court may at any time make an order awarding carriage of the action to any person who has a perfected lien.

Consolidation of
actions

(2) Where more than one action is brought to enforce liens in respect of the same improvement, the court may,

- (a) consolidate all the actions into one action; and
- (b) award carriage of the action to any person who has a perfected lien.

Application
to fix date for
trial or
settlement
meeting

62.—(1) Any party may make a motion to the court without notice to any other person at any time after,

- (a) the delivery of the statements of defence, or the statements of defence to all crossclaims, counterclaims or third party claims, if any, where the plaintiff's claim is disputed; or
- (b) the expiry of the time for the delivery of these statements of defence in all other cases,

to have a day, time and place fixed for the trial of the action, or for the holding of a settlement meeting under section 63, or both.

Notice of
settlement
meeting

(2) Where the court orders the holding of a settlement meeting, then at least ten days before the date appointed for the holding of the meeting, the party who obtained the appoint-

ment shall serve a notice of settlement meeting upon any person who was, on the twelfth day before the date appointed,

- (a) subject to section 56 (default in filing defence), the owner and every other person named as a defendant in every statement of claim in respect of the action;
- (b) where the lien attaches to the premises, a person with a registered interest in the premises;
- (c) where the lien attaches to the premises, an execution creditor of the owner;
- (d) any other person having a preserved or perfected lien against the premises; and
- (e) a person joined as a third party under section 58.

(3) Where the lien does not attach to the premises, the party who obtained the appointment for the holding of the settlement meeting shall request the owner to inform him of the identity of every person described in clause (2) (d). Request to identify other persons having lien

(4) Subject to section 56, where the court fixes a date for trial, the party who obtained the appointment shall serve a notice of trial, at least ten days before the date appointed for trial, upon any person who is or would be entitled to a notice of a settlement meeting under subsection (2). Service of notice of trial

63.—(1) Where a settlement meeting is ordered by the court, it shall be conducted in accordance with this section. Conduct of settlement meeting

(2) The settlement meeting shall be conducted by, Idem

- (a) a person selected by a majority of the persons present at the meeting; or
- (b) where no person is selected, by the person who took out the appointment,

and shall be for the purpose of resolving or narrowing any issues to be tried in the action.

(3) The results of the settlement meeting shall be embodied in a statement of settlement which shall summarize those issues of fact and law which have been settled by the parties. Idem

(4) The statement of settlement shall be filed with the court and shall be attached to and form part of the record, and the settlement shall be binding upon all persons served with notice Statement of settlement

of the settlement meeting, and upon all defendants against whom pleadings have been noted closed under section 56, but subject to subsection 56 (3), the court may vary or set aside the statement of settlement upon such order as to costs or otherwise as it considers appropriate.

Power of
court

(5) Upon the filing of the statement of settlement with the court, the court may,

- (a) if there was no dispute at the meeting to a claim for lien, declare the lien valid and give such further judgment as it considers appropriate;
- (b) enter a judgment or make a report upon consent on those issues which have been settled by the parties;
- (c) make any order that is necessary in order to give effect to any judgment or report of the court under clause (a) or (b); and
- (d) make any order that is necessary for, or will expedite the conduct of, the trial.

Non-
application of
rule 244

(6) Rule 244 of the Supreme Court Rules of Practice does not apply to an action under this Act.

Judgment or
report

64.—(1) The results of the trial shall be embodied,

- (a) in a judgment in the prescribed form, where the trial is conducted by a judge or local judge of the court; or
- (b) in a report in the prescribed form, where the trial is conducted by a master or an appointed local master of the court on a reference.

Varying form

(2) The prescribed form of judgment or report may be varied by the court in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he is entitled.

When report
deemed
confirmed

(3) The report of a master or an appointed local master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of appeal is served within that time.

Issue of
execution

(4) The judgment or report may direct any party found liable to make a payment, to make such payment forthwith, and execution may be issued,

- (a) immediately, in the case of a judgment; or

(b) after confirmation, in the case of a report.

(5) The court may order that the interest in the premises be sold and may direct the sale to take place at any time after the judgment or confirmation of the report, allowing a reasonable time for advertising the sale.

Order for
sale

(6) The court may allow any person with a perfected lien,

Persons who
may be let in

(a) who was not served with a notice of trial; or

(b) whose action was stayed by reason of an order under the *Arbitrations Act*,

R.S.O. 1980,
c. 25

to be let in to prove his claim at any time before the amount realized in the action for the satisfaction of the lien has been distributed, and where his claim is allowed, the judgment or report shall be amended to include his claim.

65. Subject to paragraph 3 of subsection 36 (4) (sheltering), the court may award any lien claimant a personal judgment, whether he proves his lien or not, upon any ground relating to his claim that is disclosed by the evidence against any party to the action for any amount that may be due to him and that he might have recovered in a proceeding against that party.

Personal
judgment

66. Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, a person with a perfected lien is entitled to share in the proceeds of sale in respect of the amount owing to him, although that amount or part thereof was not payable at the time of the commencement of the action or at the time of the distribution of the proceeds.

Right to
share in
proceeds

67.—(1) The court may make all orders necessary for the completion of a sale and for vesting an interest in the premises in the purchaser.

Orders for
completion
of sale

(2) Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, the proceeds of the sale shall be paid into court to the credit of the action.

Payment into
court of
proceeds

(3) The court may add to the claim of the party having carriage of the action his fees and actual disbursements in connection with the sale.

Fees and
disbursements

To whom
proceeds
paid

(4) The court shall direct to whom the proceeds shall be paid in accordance with the priorities established by this Act.

Where
proceeds
insufficient to
satisfy
judgment

(5) Where the proceeds of the sale are not sufficient to satisfy the judgment and costs, the court shall certify the amount of the deficiency and give personal judgment in the appropriate amount to each person whose judgment is not satisfied out of the proceeds against each person who has been found liable to him.

Application
to court for
directions

68. Where a person has in his possession an amount that may be subject to a trust under Part II, he may apply to the court for direction and the court may give any direction or make any order that the court considers appropriate in the circumstances.

Summary
procedure

69.—(1) The procedure in an action shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question.

Interlocutory
proceedings

(2) Interlocutory proceedings, other than those provided for in this Act, shall not be taken without the consent of the court obtained upon proof that the proceedings are necessary or would expedite the resolution of the issues in dispute.

Application
of rules of
practice
R.S.O. 1980,
c. 223

(3) Except where inconsistent with this Act, and subject to subsection (2), the *Judicature Act* and the Supreme Court Rules of Practice apply to pleadings and proceedings under this Act.

Technical
assistance

(4) The court may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or other person in such a way as it considers fit, to enable it to determine better any matter of fact in question, and may fix the remuneration of such person and direct the payment thereof by any of the parties.

Representa-
tion by agent

(5) A lien claimant whose claim is for an amount within the monetary jurisdiction of a small claims court may be represented by an agent who is not a barrister and solicitor.

Manner of
making
motion

(6) Where in this Act the court is empowered to do anything upon motion, the motion may be made in the manner provided for in the Supreme Court Rules of Practice for the making of interlocutory motions, regardless of whether any action has been commenced at the time the motion is made.

PART IX

EXTRAORDINARY REMEDIES

70.—(1) Any person having a lien, or any other person having an interest in the premises, may apply to the court for the appointment of a trustee and the court may appoint a trustee upon such terms as to the giving of security or otherwise as the court considers appropriate.

Application
for
appointment
of trustee

(2) Subject to the supervision and direction of the court, a trustee appointed under subsection (1) may,

Powers of
trustee

(a) act as a receiver and manager and, subject to the *Planning Act* and the approval of the court, mortgage, sell or lease the premises or any part thereof;

R.S.O. 1980,
c. 379

(b) complete or partially complete the improvement;

(c) take appropriate steps for the preservation of the premises; and

(d) subject to the approval of the court, take such other steps as are appropriate in the circumstances.

(3) Subject to subsection 80 (7), all liens shall be a charge upon any amount recovered by the trustee after payment of the reasonable business expenses and management costs incurred by the trustee in the exercise of any power under subsection (2).

Liens a
charge on
amounts
recovered

(4) Any interest in the premises that is to be sold may be offered for sale subject to any mortgage, charge, interest or other encumbrance that the court directs.

Sale subject
to
encumbrances

(5) The court may make all orders necessary for the completion of any mortgage, lease or sale by a trustee under this section.

Orders for
completion
of sale, etc.

71.—(1) Where a labour and material payment bond is in effect in respect of an improvement, any person whose payment is guaranteed by that bond has a right of action to recover the amount of his claim, in accordance with the terms and conditions of the bond, against the surety on the bond, where the principal on the bond defaults in making the payment guaranteed by the bond.

Labour and
material
payment
bonds

(2) Nothing in this section makes the surety liable for an amount in excess of the amount that he undertakes to pay under the bond and the surety's liability under the bond shall be

Saving

reduced by and to the extent of any payment made in good faith by the surety either before or after judgment is obtained against the surety.

Subrogation

(3) The surety, upon satisfaction of its obligation to any person whose payment is guaranteed by the bond, shall be subrogated to all the rights of that person.

PART X

APPEALS

Stated case

72.—(1) Where in the course of an action a question of law arises, the court may state the question in the form of a stated case for the opinion of the Divisional Court, and the stated case shall thereupon be set down to be heard before the Divisional Court and notice of hearing shall be served by the party setting down the matter upon all parties concerned.

Facts to be set out

(2) The stated case shall set forth those facts material to the determination of the question raised.

Appeal to Divisional Court

73.—(1) Subject to subsection (3), an appeal lies from a judgment or a report under this Act to the Divisional Court.

Time for filing and serving notice of appeal

(2) A party wishing to appeal a judgment or report shall file and serve his notice of appeal,

(a) prior to the confirmation of the report where the appeal is in respect of a report; or

(b) within fifteen days of the date of judgment in all other cases,

but the time for filing or serving the notice of appeal may be extended by the written consent of all parties, or by a single judge of the Divisional Court where an appropriate case is made out for doing so.

Where no appeal lies

(3) No appeal lies from,

(a) a judgment or a report under this Act, where the amount claimed is \$1,000 or less; or

(b) an interlocutory order made by the court.

PART XI

PRIORITIES

74. A person who has supplied services or materials in respect of an improvement may enforce his lien despite the non-completion or abandonment of the contract or a subcontract by any other person.

Enforcement
of lien
despite
default

75. The rights of a person having a lien may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative.

Assignment
of lien rights

76.—(1) Subject to section 84, where one or more premises that are subject to an unpreserved general lien are sold, the general lien continues for the full amount of the lien against those premises that are subject to the lien, that were not sold.

Continuation
of general
lien

(2) Where a person having a preserved or perfected general lien releases the lien against one or more of the premises subject to the lien, the lien continues for the full amount of the lien against those premises that were not released.

Idem

77.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of, or the giving of time for the payment of, or the taking of proceedings for the recovery of, or the obtaining of a personal judgment for, the claim, does not in itself merge, waive, pay, satisfy, prejudice or destroy a lien.

Effect of
taking
security

(2) Where any promissory note or bill of exchange has been negotiated, the person having the lien may still enforce the lien if he is the holder of the promissory note or bill of exchange at the time when he proves his claim.

Where note
or bill
negotiated

(3) Nothing in this section extends the time for, or dispenses with the requirement for, the preservation or perfection of a lien.

Time not
extended

78. Where a claim for lien is preserved by registration, the lien claimant shall be deemed to be a purchaser to the extent of his lien within the provisions of the *Registry Act* and *Land Titles Act*, but except as otherwise provided in this Act, those Acts do not apply to any lien arising under this Act.

Lien claimant
deemed
purchaser
R.S.O. 1980,
cc. 445, 230

79. The liens arising from an improvement have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders except those executed or re-

Priority of
liens over
executions,
etc.

covered upon before the time when the first lien arose in respect of the improvement.

Priority over
mortgages,
etc.

80.—(1) Except as provided in this section, the liens arising from an improvement have priority over all conveyances, mortgages or other agreements affecting the owner's interest in the premises.

Building
mortgage

(2) Where a mortgagee takes a mortgage with the intention to secure the financing of an improvement, the liens arising from the improvement have priority over that mortgage, and any mortgage taken out to repay that mortgage, to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV, irrespective of when that mortgage, or the mortgage taken out to repay it, is registered.

Prior
mortgages,
prior
advances

(3) Subject to subsection (2), and without limiting the effect of subsection (4), all conveyances, mortgages or other agreements affecting the owner's interest in the premises that were registered prior to the time when the first lien arose in respect of an improvement have priority over the liens arising from the improvement to the extent of the lesser of,

- (a) the actual value of the premises at the time when the first lien arose; and
- (b) the total of all amounts that prior to that time were,
 - (i) advanced in the case of a mortgage, and
 - (ii) advanced or secured in the case of a conveyance or other agreement.

Prior
mortgages,
subsequent
advances

(4) Subject to subsection (2), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that was registered prior to the time when the first lien arose in respect of an improvement, has priority, in addition to the priority to which it is entitled under subsection (3), over the liens arising from the improvement, to the extent of any advance made in respect of that conveyance, mortgage or other agreement after the time when the first lien arose, unless,

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or
- (b) prior to the time when the advance was made, the person making the advance had received written notice of a lien.

(5) Where any mortgage is registered after the time when the first lien arose in respect of an improvement, the liens arising from the improvement have priority over the mortgage to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV.

Special
priority
against
subsequent
advances

(6) Subject to subsections (2) and (5), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that is registered after the time when the first lien arose in respect to the improvement, has priority over the liens arising from the improvement to the extent of any advance made in respect of that conveyance, mortgage or other agreement, unless,

General
priority
against
subsequent
mortgages

(a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or

(b) prior to the time when the advance was made, the person making the advance had received written notice of a lien.

(7) Despite anything in this Act, where an amount is advanced to a trustee appointed under Part IX as a result of the exercise of any powers conferred upon him under that Part,

Advances to
trustee under
Part IX

(a) the interest in the premises acquired by the person making the advance takes priority, to the extent of the advance, over every lien existing at the date of the trustee's appointment; and

(b) the amount received is not subject to any lien existing at the date of the trustee's appointment.

(8) Despite subsections (4) and (6), where a preserved or perfected lien is postponed in favour of the interest of some other person in the premises, that person shall enjoy priority in accordance with the postponement over,

Where
postponement

(a) the postponed lien; and

(b) where an advance is made, any unpreserved lien in respect of which no written notice has been received by the person in whose favour the postponement is made at the time of the advance,

but nothing in this subsection affects the priority of the liens under subsections (2) and (5).

Saving

(9) Subsections (2) and (5) do not apply in respect of a mortgage that was registered prior to the day on which this Act comes into force.

Registration
of financial
guarantee
bond

(10) A financial guarantee bond in a form prescribed may be registered on the title to the premises, and where the bond is registered a purchaser who takes title from the mortgagee takes title to the premises free of the priority of the liens created by subsections (2) and (5), the security of the bond takes the place of the priority created by those subsections and persons who have proved liens have a right of action against the surety on the bond.

Persons who
comprise
class

81. All persons having a lien who have supplied services or materials to the same payer comprise a class, and a person who has supplied services or materials to more than one payer is a member of every class to the extent to which his lien relates to that class.

Priority
between and
within class

82.—(1) Except where it is otherwise provided by this Act,

- (a) no person having a lien is entitled to any priority over another member of the same class;
- (b) all amounts available to satisfy the liens in respect of an improvement shall be distributed rateably among the members of each class according to their respective rights; and
- (c) the lien of every member of a class has priority over the lien of the payer of that class.

Where
conveyance
or mortgage
void

(2) Any conveyance or mortgage in respect of the premises to any person entitled to a lien on the premises, in payment of or as security for that claim, whether given before or after that lien arises, is void against all other persons entitled to a lien on the premises.

Worker's
priority

83.—(1) The lien of a worker has priority over the lien of any other person belonging to the same class to the extent of the amount of forty regular-time working days' wages.

Workers'
trust fund

(2) Where monetary supplementary benefits are payable to a workers' trust fund instead of to a worker, the trustee of the workers' trust fund is subrogated to the rights of the worker under this Act with respect to those benefits.

(3) Every device to defeat the priority given to workers by this section is void.

Device to defeat workers' priority void

84. Where a general lien is realized against a premises in an action in which other liens are also realized against the premises,

Subordination of general lien claims

(a) the general lien shall rank with the other liens according to the rules of priority set out in section 82 only to the extent of,

(i) the total value of the general lien,

divided by,

(ii) the total number of premises to which the person having the general lien supplied services or materials under his contract or subcontract; and

(b) in respect of the balance of the general lien, it shall rank next in priority to all other liens against the premises, whether or not of the same class.

85. Where a premises that is subject to a lien is destroyed in whole or in part, any amount received by the owner or a mortgagee by reason of any insurance on the premises shall take the place of the premises so destroyed and shall be distributed in accordance with the priorities set out in this Part.

Application of insurance proceeds

86. Where an interest in the premises is sold or leased under an order of the court or by a trustee appointed under Part IX, the proceeds received as a result of that disposition, together with any amount paid into court under subsection 67 (2), shall be distributed in accordance with the priorities set out in this Part.

Distribution of proceeds of sale

87.—(1) Where a payer becomes insolvent, the trust fund of which that payer is trustee shall be distributed so that priority over all others is given to a beneficiary of that trust who has proved a lien and a beneficiary of a trust created by section 8 that is derived from that trust, who has proved a lien.

Priorities on insolvency

(2) Priority in the distribution of trust funds among those who have proved liens shall be in accordance with the respective priorities of their liens as set out in this Part.

Idem

(3) The remaining trust funds shall be distributed among the beneficiaries of that trust and the beneficiaries of trusts created by section 8 that are derived from that trust, whose liens have

Idem

not been proved, in accordance with the respective priorities to which those liens would have been entitled as set out in this Part, had those liens been proved.

PART XII

MISCELLANEOUS RULES

Costs

88.—(1) Subject to subsection (2), any order as to the costs in an action, application, motion or settlement meeting is in the discretion of the court, and an order as to costs may be made against,

- (a) any party to the action or motion; or
- (b) the solicitor or agent of any party to the action, application or motion, where the solicitor or agent has,
 - (i) knowingly participated in the preservation or perfection of a lien, or represented a party at the trial of an action, where it is clear that the claim for lien is without foundation or is for a grossly excessive amount, or that the lien has expired, or
 - (ii) by his conduct prejudiced or delayed the conduct of the action,

and the order may be made on a solicitor-and-client basis, including where the motion is heard by, or the action has been referred under section 60 to, a master or an appointed local master.

Where least expensive course not taken

(2) Where the least expensive course is not taken by a party, the costs allowed to him shall not exceed what would have been incurred had the least expensive course been taken.

Scale of costs

(3) Except where otherwise ordered by the court hearing an appeal, the costs of an appeal shall be on the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court and where it exceeds that amount shall be on the Supreme Court scale.

How documents may be given

89.—(1) Subject to subsection (3) and, except where otherwise ordered by the court, all documents and notices required to be given or that may be given under this Act, may be served in any manner permitted under the Rules of the Supreme Court or, in the alternative, may be sent by certified or registered mail addressed to the intended recipient at his last known mailing address,

- (a) according to the records of the person sending the document; or
- (b) as stated on the most recently registered instrument identifying him as a person having an interest in the premises.

(2) In the absence of evidence to the contrary, a document or notice sent to a person by certified or registered mail shall be deemed to have been received by him on the fifth day following the date on which it was mailed, exclusive of Saturdays and holidays.

When document deemed received

(3) Except where otherwise ordered by the court, the following shall not be sent by certified or registered mail but shall be served in the manner provided in the Rules of the Supreme Court for service of a writ of summons:

Service of particular documents, etc.

1. Statement of claim.
2. Notice of trial or settlement meeting.
3. Notice of appeal.

(4) Where a document or notice is sent by registered mail, the date appearing on the postal registration receipt shall be deemed conclusively to be the date of mailing.

Date of mailing

90. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing forms and providing for their use;
- (b) prescribing the appropriate offices of the Crown to which claims for lien must be sent;
- (c) prescribing the form and manner of publication of copies of certificates and declarations of substantial performance under section 32.

91. Sections 1 to 51 and section 53 of the *Mechanics' Lien Act*, being chapter 261 of the Revised Statutes of Ontario, 1980, are repealed.

Repeal

92.—(1) This Act comes into force on the 2nd day of April, 1983, and applies to all contracts entered into on or after that date and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Commencement and application

Transitional
R.S.O. 1980,
c. 261

(2) Despite section 91, the *Mechanics' Lien Act* continues to apply to all contracts entered into before the 2nd day of April, 1983, and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Idem

(3) Despite section 91, where a contract entered into before the 2nd day of April, 1983 is amended in good faith on or after that date, the *Mechanics' Lien Act* applies to that amendment and to all subcontracts arising under it and to all services or materials supplied thereunder.

Short title

93. The short title of this Act is the *Construction Lien Act, 1983*.

Bill 217

An Act to amend the Denture Therapists Act

Mr. Swart

1st Reading January 25th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would amend the Act to refer to denturists rather than denture therapists and would permit denturists to make, repair and market partial dentures without requiring supervision by dentists.

Bill 217

1983

An Act to amend the Denture Therapists Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title to the *Denture Therapists Act*, being chapter 115 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Title,
re-enacted

Denturists Act

2. Wherever in the said Act reference is made to a denture therapist, the reference shall be deemed to be to a denturist.

Amendments
to references

3.—(1) Clauses 1 (a) and (b) of the said Act are repealed and the following substituted therefor:

s. 1 (a, b),
re-enacted

(a) "Appeal Board" means the Denturists Appeal Board continued under section 13;

(b) "Board" means the Governing Board of Denturists under section 2.

(2) Clause 1 (h) of the said Act is amended by striking out "or the practice of supervised denture therapy, as the case may be" in the sixth and seventh lines.

s. 1 (h),
amended

(3) Clause 1 (i) of the said Act is amended by striking out "or the practice of supervised denture therapy" in the second and third lines.

s. 1 (i),
amended

(4) Clause 1 (j) of the said Act is amended by striking out "or the practice of supervised denture therapy" in the third line.

s. 1 (j),
amended

(5) Clause 1 (m) of the said Act is repealed.

s. 1 (m),
repealed

4.—(1) Subsection 2 (1) of the said Act is repealed and the following substituted therefor:

s. 2 (1),
re-enacted

Governing
Board of
Denturists

(1) The Governing Board of Denture Therapists is continued and shall be known as the Governing Board of Denturists and composed of members appointed by the Lieutenant Governor in Council.

s. 2 (9) (a),
amended

(2) Clause 2 (9) (a) of the said Act is amended by striking out “and the practice of supervised denture therapy” in the first and second lines.

s. 2 (9) (c),
amended

(3) Clause 2 (9) (c) of the said Act is amended by striking out “and the practice of supervised denture therapy” in the third and fourth lines.

s. 3 (1),
amended

5.—(1) Subsection 3 (1) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the fourth and fifth lines.

s. 3 (3),
amended

(2) Subsection 3 (3) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the second and third lines and in the fifth line.

s. 4 (5),
amended

6.—(1) Subsection 4 (5) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the third and fourth lines.

s. 4 (6),
re-enacted;
s. 4 (7-9),
repealed

(2) Subsections 4 (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

Acts outside
scope of
practice

(6) No licensed denturist shall perform any act in the practice of dentistry except within the scope of the practice of denture therapy performed in the manner required by this Act.

s. 13 (1),
re-enacted

7. Subsection 13 (1) of the said Act is repealed and the following substituted therefor:

Denturists
Appeal
Board

(1) The Denture Therapists Appeal Board is continued and shall be known as the Denturists Appeal Board.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Denture Therapists Amendment Act, 1983*.

Bill 218

An Act to amend the Labour Relations Act

Mr. Peterson

<i>1st Reading</i>	February 3rd, 1983
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The Bill would require a provincial, national or international trade union to obtain the consent of the Ontario Labour Relations Board before assuming supervision or control of a subordinate trade union.

Bill 218

1983

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 82 of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 82,
re-enacted

LOCALS UNDER TRUSTEESHIP

82.—(1) No provincial, national or international trade union shall assume supervision or control over a subordinate trade union, whereby the autonomy of the subordinate trade union or the powers of its officers or agents are suspended under the constitution or by-laws of the provincial, national or international trade union, without the consent of the Board. Trusteeship
over local
unions

(2) The Board may consent to an assumption of supervision or control under subsection (1) where it considers the assumption of supervision or control necessary to preserve the financial assets of the subordinate trade union or to restore its democratic procedures, subject to such terms and conditions as it considers appropriate. Consent of
Board

(3) A trade union that has obtained the Board's consent to an assumption of supervision or control under subsection (2) shall, upon the direction of the Board, file any additional information concerning the supervision and control that the Minister may from time to time require. Information
to be filed

(4) Where a trade union has obtained the Board's consent to an assumption of supervision or control over a subordinate trade union, the supervision or control shall not continue for more than twelve months from the date of the assumption, but the supervision or control may be continued for a further period of twelve months with the consent of the Board. Duration of
trusteeship

2. This Act comes into force on the day it receives Royal Assent. Commencement

Short title

3. The short title of this Act is the *Labour Relations Amendment Act, 1983*.

Bill 219

An Act to amend the Family Law Reform Act

Ms. Bryden

<i>1st Reading</i>	February 11th, 1983
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The Bill amends section 8 of the *Family Law Reform Act* to give the courts clear authority to take a spouse's assumption of household and child care responsibilities into account in making an award under that section, which deals with a spouse's contributions to non-family assets held by the other spouse. In *Page v. Page* (1980), 31 O.R. (2d) 185, the Supreme Court of Ontario held that "a wife is not entitled to an award under section 8 simply because she has been a zealous wife and mother, freeing the husband for the pursuit of great income and assets which may become non-family assets" and that interpretation of section 8 was approved by the Supreme Court of Canada in *Leatherdale v. Leatherdale* (unpublished, judgment pronounced December 6th, 1982).

The Bill would also amend subsection 42 (3) and subclause 45 (1) (f) (ii) of the Act to make it clear that a purchaser or mortgagee of real property cannot rely on the vendor's or mortgagor's affidavit that the property is not a matrimonial home if the purchaser or mortgagee has other information on the subject that would lead a reasonable person to investigate further. In *Stoimenov v. Stoimenov* (unpublished, judgment released December 24th, 1982) the Supreme Court of Ontario held that a mortgagee who has information suggesting that the property being mortgaged may be a matrimonial home may nevertheless rely, in the absence of actual notice, on the mortgagor's affidavit that the property is not a matrimonial home.

Bill 219

1983

**An Act to amend the
Family Law Reform Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 8,
amended

(2) Where one spouse or former spouse has contributed, by the assumption of more than an equal share of any of the responsibilities set out in subsection 4 (5), to the ability of the other to acquire, manage, maintain, operate or improve property, other than family assets, in which the other has or had an interest, upon application, the court may by order, Idem,
assumption
of family
responsi-
bilities

(a) direct the payment of an amount in compensation therefor; or

(b) award a share of the interest of the other spouse or former spouse in the property appropriate to the contribution.

2. Subsection 42 (3) of the said Act is amended by inserting after "contrary" in the sixteenth line "or ought reasonably to have known that the contrary was true". s. 42 (3),
amended

3. Subclause 45 (1) (f) (ii) of the said Act is amended by inserting after "knew" in the first line "or ought reasonably to have known". s. 45 (1) (f)
(ii),
amended

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Family Law Reform Amendment Act, 1983*. Short title

Bill 220

*(Chapter 17
Statutes of Ontario, 1983)*

**An Act for granting to Her Majesty certain
additional sums of money for the Public Service
for the fiscal year ending the 31st day of
March, 1982 and certain sums of money for the
Public Service for the fiscal year ending
the 31st day of March, 1983**

The Hon. F. S. Miller

Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	February 14th, 1983
<i>2nd Reading</i>	February 14th, 1983
<i>3rd Reading</i>	February 14th, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 220

1983

An Act for granting to Her Majesty certain additional sums of money for the Public Service for the fiscal year ending the 31st day of March, 1982 and certain sums of money for the Public Service for the fiscal year ending the 31st day of March, 1983

MOST GRACIOUS SOVEREIGN:

Whereas it appears by messages from the Honourable John B. Aird, Lieutenant Governor of the Province of Ontario, and from the estimates and supplementary estimates accompanying the same, that the sums mentioned in Schedule 1 are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1982 and that the sums mentioned in Schedule 2 are required to defray certain charges and expenses, not otherwise provided for, for the fiscal year ending the 31st day of March, 1983; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1.—(1) In addition to the sum of \$12,604,272,800 granted by the *Supply Act, 1981*, there may be paid out of the Consolidated Revenue Fund a sum not exceeding \$236,794,600 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1981, to the 31st day of March, 1982, as set forth in Schedule 1, and, subject to subsection (3), such sum shall be paid and applied only in accordance with the votes and items of the supplementary estimates upon which Schedule 1 is based.

Supplementary estimates for fiscal year 1981-82
1981, c. 74

(2) There may be paid out of the Consolidated Revenue Fund a sum not exceeding in the whole \$20,248,075,400 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1982, to the 31st day of March, 1983, as set forth in

Estimates and supplementary estimates for fiscal year 1982-83

Schedule 2, and, subject to subsection (3), such sum shall be paid and applied only in accordance with the votes and items of the estimates and supplementary estimates upon which the Schedule is based.

Exception

(3) Where, in the fiscal year ending the 31st day of March, 1982 or 1983, powers and duties are assigned and transferred from one minister of the Crown to another minister of the Crown, the appropriate sums in the votes and items of the estimates and supplementary estimates upon which the Schedules are based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by certificate of the Management Board of Cabinet to the ministry administered by the minister to whom the powers and duties are so assigned and transferred.

Accounting
for
expenditure

2. The due application of all moneys expended under this Act shall be accounted for to Her Majesty.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Supply Act, 1983*.

SCHEDULE 1

Supplementary Estimates for
Fiscal year ending 31st March, 1982

Government Services	\$ 3,837,100
Northern Affairs	1,300,000
Treasury and Economics	6,000,000
Attorney General	3,000,000
Environment	30,000,000
Municipal Affairs and Housing	38,640,400
Natural Resources	1,878,200
Transportation and Communications	14,600,000
Colleges and Universities	5,525,000
Community and Social Services	43,241,600
Health	88,772,300
TOTAL	<u>\$236,794,600</u>

SCHEDULE 2

Fiscal year ending March 31, 1983

	Estimates	Supplementary	Total
	\$	Estimates \$	\$
Office of the Lieutenant Governor	229,800		229,800
Office of the Premier	2,058,900		2,058,900
Cabinet Office	1,529,400		1,529,400
Management Board	261,586,500		261,586,500
Government Services	365,481,600		365,481,600
Intergovernmental Affairs	7,053,200		7,053,200
Northern Affairs	179,057,900		179,057,900
Revenue	599,660,700		599,660,700
Treasury and Economics	200,309,000	241,000,000	441,309,000
Office of the Assembly	27,296,400	3,441,500	30,737,900
Office of the Provincial Auditor	3,886,000		3,886,000
Office of the Ombudsman	5,124,000	96,000	5,220,000
Justice Policy	858,100		858,100
Attorney General	218,244,500	1,000,000	219,244,500
Consumer and Commercial Relations	91,669,300	1,465,000	93,134,300
Correctional Services	184,656,300		184,656,300
Solicitor General	284,563,500		284,563,500
Resources Development Policy	3,491,200		3,491,200
Agriculture and Food	236,016,700	1,900,000	237,916,700
Energy	128,735,300		128,735,300
Environment	346,061,900		346,061,900
Industry and Trade	68,884,500		68,884,500
Labour	63,809,800		63,809,800
Municipal Affairs and Housing	1,017,976,000		1,017,976,000
Natural Resources	357,232,000		357,232,000
Tourism and Recreation	88,643,200		88,643,200
Transportation and Communications	1,413,868,500		1,413,868,500
Social Development Policy	5,448,700		5,448,700
Citizenship and Culture	221,745,000		221,745,000
Colleges and Universities	1,860,028,000		1,860,028,000
Community and Social Services	1,970,515,000	97,030,100	2,067,545,100
Education	3,032,664,900		3,032,664,900
Health	6,543,757,000	110,000,000	6,653,757,000
TOTAL	<u>19,792,142,800</u>	<u>455,932,600</u>	<u>20,248,075,400</u>

